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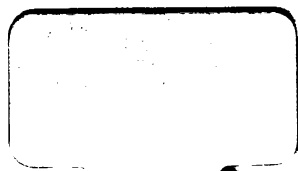
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THE
CIVIL CODE
OF
JAPAN
PART II.



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THE CIVIL CODE OF JAPAN.

PART II.

WITH AN INTRODUCTION TREATING OF THE
JAPANESE FAMILY SYSTEM, A FULL INDEX
TO THE WHOLE CODE, AND AN
APPENDIX GIVING THE MOST
RECENT LEGISLATION
ON THE SUBJECT.

TRANSLATED BY

JOHN HARRINGTON GUBBINS, C. M. G.

*Student of the Middle Temple ;
Second Secretary and Japanese Secretary
of H. B. M.'s Legation
in Japan.*

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PREFACE.

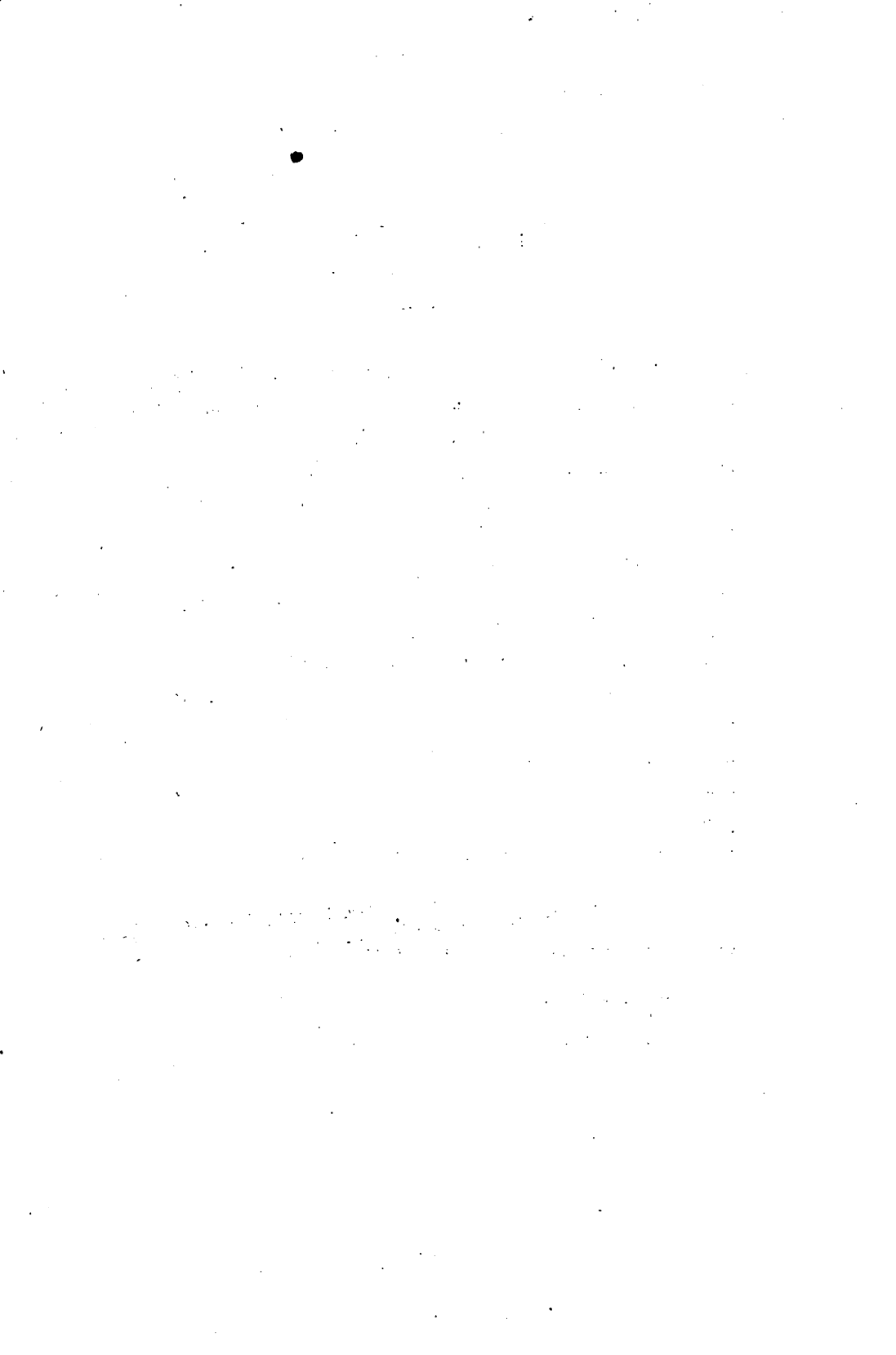
The present volume is the sequel to that published by the translator in December 1897, and contains a translation of the remainder of the Civil Code, namely, Books IV. and V., which treat of Kindred and Succession. These were promulgated on the 15th June 1898, and the Code being thus complete came into operation on the 16th of the following month. The translation is accompanied by an Introduction which is intended to throw light on the somewhat complex and to many readers unfamiliar matters connected with Japanese family law.

To Mr. R. Masujima, *Hogaku Hakushi* of the Japanese Bar, and Barrister of the Middle Temple, and Mr. G. Akiyama, *Hogaku-shi* of the Japanese Bar, until recently President of the Yokohama *Chihō-Saibansho*, the translator's thanks are again due for the great assistance he has received from them in the translation of this final portion of the Code. He has also benefited by the criticisms of friends who have kindly read through the proof-sheets of the Introduction.

As in the previous volume, the Japanese text is added for the convenience of those who may wish to refer to it.

TOKIO

MAY 1899.



INTRODUCTION.



THE JAPANESE FAMILY SYSTEM.

Any one reading the Books of the new Civil Code which deal with Kindred and Succession will notice that in Japan it is the family, and not, as with us, the individual, which is the unit of society. A short sketch, therefore, of the family system in its essential features may not be out of place, in spite of the difficulty of treating in a small compass a subject so wide. In this sketch the system has necessarily been treated as one common to the whole country, but it may be well to point out that until quite recent times matters concerning family law have been governed by local custom, which has varied not only in each province, but often in districts of the same province.

In order to give a wider view of the subject, and at the same time to render it more interesting to the reader unacquainted with things Japanese, the writer has strayed beyond the strict limits of connection between the family system and the present Code.



II.

INTRODUCTION.

In his able and exhaustive treatise on Japanese family law* Dr. Weipert has drawn attention to the importance of the *Family* in Japan. This importance is not derived from any idea of ancestry, though pride of birth is as common as with us, but from another set of ideas,—from a difference in the point of view from which society is regarded. It is due simply to the fact that the family is the social unit, and it is theoretically as great in plebeian as in patrician circles, for in this matter neither law, nor custom is any respecter of persons. With us it is the individual, in Japan it is the family, round which everything centres.

Wide, however, as is the extension of the family idea, so to speak, in Japan, it must not be supposed that the strictness with which the usages connected with the family system are observed is the same throughout all classes of society. Speaking broadly, it is not incorrect to say that the family idea finds its most complete expression in the ranks of the nobility, and that as it extends downwards through the various strata of society its importance gradually decreases, until when the lowest level is reached the family tie is barely traceable, and the individual, and not the family, appears as the unit of society.†

* Mittheilungen der Deutschen Gesellschaft für Natur und Völkerkunde Ostasiens in Tokio (1890).

† In practice but not in theory. In theory of course the operation of the family system is the same throughout all classes of society, and to this the new Code lends its weight, and gives the

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But this statement needs some qualification. The natural conservatism of all rural populations has shewn itself in Japan in a tendency towards a stricter adherence to the usages connected with the family system in the country than in towns, and this tendency was increased by the curious gradation of classes, which placed the farmer next to the military man and above both the artisan and merchant. On the other hand the influence of the family was less amongst the feudal nobility, and the military class on which it rested, than amongst other sections of the people. Here the family idea came into conflict with the more powerful feudal feeling, the tie between lord and retainer, with the result that parental authority, the power of the head of the family, and the importance of family councils were perceptibly weakened.

force of law. It will be interesting to note, in the working of the Code, the result of the translation of this theory into practice, and to observe the operation side by side of two opposite movements, namely, the greater stringency introduced by the law into the observance of family usages in circles where before they were practically non-existent, and the gradual and inevitable loosening of the family tie which will be the result of the pressure of western civilization, and to some extent also of the progressive spirit in which the Code itself is conceived.

Owing to the obscurity in which the subject is involved, and its complicated nature, the question of the origin of the Japanese family system presents some difficulty. In the absence, however, of good grounds for supposing ancestor worship to have been a separate and independent factor in its development,* it is probably correct to regard it as the product mainly of two agencies, Chinese civilization and feudalism. Whether this civilization was borrowed by Japan from the sister country in a more or less matured form, or whether she received it in the shape simply of primitive ideas as part of her birthright from a parent stock in Asia common to the two countries, is a subject upon which opinions differ. In any case it may be safely assumed that it was the earlier of the two agencies; and bearing in mind the wholesale introduction, at a later date, of the language, literature, and ethics of China, by which this civilization was more widely diffused throughout Japan, the conclusion to which one is naturally brought is that while the groundwork of the system is Chinese, it is overlaid and interwoven with much that is of feudal origin.

* Perhaps I have put this too strongly. The exact position to be assigned to ancestor worship in the evolution of the Japanese family system is a point which is much contested. Professor N. Hōzumi, who has kindly looked over the proof-sheets of this Introduction, and to whom I am indebted for several valuable suggestions, holds that ancestor worship was the foundation of the Japanese family system, and that Chinese civilization and feudalism are to be regarded simply as factors in its development; and his view is shared by other Scholars.

And this conclusion is strengthened if we look at the family system as it existed in quite recent times, prior to the changes made by later legislation. The features which constitute its basis, such, for instance, as parental authority, the position of women both within and without the household, and the relations between the sexes, are clearly the outcome of Chinese ideas, which make their presence felt throughout the whole range of family life. On the other hand the influence of feudalism, which has so profoundly modified the national character, is often so indistinct that one is tempted to deny it its proper meed of recognition, and to hold judgment in suspense for lack of clearer evidence. It is possible nevertheless to trace its working, intermingled perhaps with what dates back to primitive and prehistoric times, in the artificial character of the family in the legal sense of the word, in the authority vested in the head of a family as distinguished from that of a parent, in the law of succession, in the customs of adoption and abdication, in the elaborate provisions framed with the view of furthering the interests of the family rather than those of the individual, and in the consolidation of the wider group of kindred in which the individuality of each citizen is merged.

Before going further it may be well to explain what is meant by the word family in Japanese law.

With us the word family is used in several meanings. It may mean the group of persons forming a household, without reference to kinship, or simply a person's offspring, or the group centred round the parents which forms one household, or the same group apart from the connecting link of the household, as when the members of a family originally forming one household are scattered; again it may be used either in the vague sense of ancestry, or to denote some particular chain of individuals connected with each other by direct descent; or it may mean a group of persons descended from a common ancestor, as represented in the tabular view furnished by a family tree.

Though the word family in Japan has not the same variety of meanings as with us, it includes two of our conceptions, that of a group of persons descended from a common ancestor, and that of a household. But in its legal sense the word denotes something to which we have nothing analogous. It means a group of persons bearing the same surname, and subject to the authority of one who is the head of the family, and who may or may not be the common parent, or ancestor;—and it is in this sense that the term “member of a family” is used in the Code. This family, which may be comprised in one household, or may embrace several, may be the main

branch of the parent stock, or only a cadet branch. In either case it constitutes what is known to the law as a family, succession to the headship of it is regulated by strict provisions, and the person who is its head is invested with certain well-defined authority. Kinship is not essential to membership in this family group, for the law provides that a relative of an adopted person may under certain circumstances become a member of the family which the latter has entered.

There is, however, another and larger family group which consists of all those who stand towards each other in the position of kindred as defined in Article 725 of the Code. In this latter group, which finds its embodiment, so to speak, in family councils, lies to a great extent the key to the real position of the individual in Japan.

The Japanese family system is thus a combination of relatives into two groups, and every Japanese, therefore, is to be regarded in two capacities: first as a member of the smaller family group—the legal family—and as such, unless he is head of the family himself, subject to the authority of its head; and secondly as a member of the wider group of kindred, with whom he is closely connected by rights and duties, and as such, whatever his position in the family may be, subject in certain matters to the control

of family councils.* But the position of a Japanese in his dual capacity as a member of both the smaller and larger family groups has little in it of the permanency and stability which are found in our family life, being affected not only, as with us, by marriage and divorce, but also liable to constant change by the separation from the family which occurs as the effect of adoption, and its dissolution, of succession to the headship of the main branch of a family, of the establishment of a fresh branch of a family, and of the resuscitation of a family which has died out, by abdication, and by the conditional liberty given to a person to change his family allegiance, so to speak, and transfer himself from the authority of one head of a family to that of another.

A wide extension is also given to both family groups by the inclusion, subject, where necessary, to the consent of the head of the family, in the father's

* It is obvious that the position of an individual with regard to these two family groups varies according as he is head of a family, or not. In the case of the head of a family these groups may be represented by concentric circles, the centre of each being the head of the family in question. In the case of other persons the circles, though contained one within the other, are not concentric, the distance separating their centres varying with the degree of kinship between the individual in question and the head of the family; and in cases where there is no tie of kinship between a "member of a family" and the family to which he belongs (which sounds to us of course paradoxical) the circles illustrating the two groups to which he belongs will be quite separate. It follows also that an adopted person may be included in two different circles of kindred, while he can only belong to one family.

family,* as a legal member of it, of an illegitimate child which he has formally recognized, but which has not been legitimized by the marriage of the parents, and the similar inclusion in the mother's family of an illegitimate child which she, but not the father, has recognized.* And the artificial character of both groups is heightened by the frequency of adoption, which, though very far from being an indissoluble tie, must so long as it exists be regarded as a fiction—"so closely simulating the reality of kinship that neither law nor opinion makes the slightest difference between a real and an adoptive connection."†

In several of its features, such as the prominence given to parental authority, the inferior position assigned to women, the custom of adoption, and the religious rites of the family, Japanese family law as it existed a few decades ago showed a close resemblance to Roman law. Though much of this resemblance has since disappeared, it may be convenient in dealing with the main features of the family system to examine first

* These cases are rare.

† Maine's "Ancient Law," page 133.

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those which have their counterparts in Roman law, and afterwards those which are more or less peculiar to Japan, noting briefly in each case, where it is possible to do so, the changes made by recent legislation.

**Parental
Authority.**

It is doubtful if at any time parental authority in Japan ever approached to the rigour of the Roman *patria potestas* as it existed in its harshest form, for, in spite of the power formerly possessed in theory by a parent over a child, which found expression in the gradation, in the now obsolete codes, of offences according as they were committed by parents against children, or by the latter against the former, it should be borne in mind that the doctrine of filial piety never excluded the duties of parents to children, and that the development of the whole question of the relations between parent and child has in Japan, as in China, proceeded on ethical rather than on legal lines. In Japan, moreover, parental authority has always been subject to two weakening influences, the power of family councils, and the custom of abdication. It now includes both paternal and maternal authority,*—a thing unknown to Roman law,—and it is

* The father and mother do not, however, exercise parental authority jointly. It is only exercised by the mother if the father is dead, has left the family, cannot be ascertained, or is unable to exercise it.

exercised over children who are "members of the family" of the parent in question during their minority, and even afterwards so long as they do not earn an independent living. It includes the right of correction, and of applying to a court of law for an order of confinement in a house of correction, the right, in the case of minors, of determining the child's place of residence, and business or profession, of managing the child's property, and of performing various legal acts on the child's behalf, subject in certain cases to the approval of a family council. At the same time the law provides safeguards against its abuse. As showing the influence of the doctrine of filial piety even on so modern a work as the present Code, it may be well to draw attention to the fact that Japanese law speaks of a person as a child, irrespective of his or her age, so long as either of the parents is alive, and that a parent's right to maintenance by a son, or daughter, has precedence over the rights in that respect of the latter's children and consort.

The legal position of women in Japan before the commencement of modern legislative reform is well illustrated by the fact that offences came under different categories according to their commission by the wife against the husband, or by the husband against the wife,

**Position
of women.**

and by the curious anomaly that while the husband stood in the first degree of relationship to his wife, the latter stood to him only in the second. The disabilities under which a woman formerly laboured shut her out from the exercise of almost all rights. She could not inherit or own property in her own name, she could not become the head of a family, she could not adopt, and she could not be the guardian of her child. The importance which under these circumstances attached to agnatic relationship is not surprising. Writing on this subject in his "Ancient law" Maine says:—"A table of Cognates is, of course, formed by taking each lineal ancestor in turn and including all his descendants of both sexes in the tabular view; if then, in tracing the various branches of such a genealogical table or tree, we stop whenever we come to the name of a female and pursue that particular branch or ramification no farther, all who remain after the descendants of women have been excluded are Agnates and their connection together is Agnatic Relationship."*

These words accurately describe the distinction which existed under the earlier laws in Japan. The maxim "*mulier est finis familiae*" was as true in Japan as in

* The terms agnates and cognates are now used by us in the sense of relations on the father's and mother's side respectively. In the meaning now attached to the former term a trace of the old distinction survives.

Rome, though its observance may have been less strict owing to the greater frequency of adoption; and the terms used to describe the two different kinds of relationship *nai-seki*, relatives within (the family) and *gwai-seki*, relatives outside (the family) bring out even more clearly than the Roman law terms the fact that the family as then conceived was the basis of the distinction.

All this has been greatly changed, and with the change the distinction between agnatic and cognatic relationship has practically disappeared. In no respect has modern progress in Japan made greater strides than in the improvement of the position of women. Though she still labours under certain disabilities,* a woman can now become the head of a family, and exercise authority as such; she can inherit and own property and manage it herself; she can exercise parental authority; if single, or a widow, she can adopt; she is one of the parties to adoption effected by her husband, and her consent in addition to that of her husband is necessary to the adoption of her child by another person;† she can act as guardian, or curator, and she has a voice in family councils.

* For instance, in the matter of succession to the headship of a family, females rank with but after males, and the place of a widow in this kind of succession depends upon whether she was originally a member of the family in question or not.

† Her husband also cannot adopt her child by a previous husband without her consent.

Adoption.

The desire to preserve the continuity of the family has given rise to the custom of adoption wherever it is found ; and in countries like Japan, where ancestor worship has survived in the practice of family rites, the anxiety to make due provision for the performance of these rites has acted as an additional incentive. But in no other country probably has adoption been conducted on so large a scale, or played so important a part in the social life of the community which has practised it. It is not limited, as with us, to the adoption of minors, for the adoption of adults* is as common as that of children, nor is it confined to the adoption at any one time of a single individual, for the adoption of a married couple, though somewhat rare is a recognized custom ; nor does any character of finality attach to the act from the point of view either of the adoptive parent or of the person adopted, for a person may adopt or be adopted more than once, and adoption may be dissolved or annulled. Nor indeed in other respects, beyond the incapacity of women to adopt does

* The adoption of very young children for the purpose of succession to the headship of a family was discouraged under the rule of the Tokugawa Shoguns and the misrepresentation of age, and even the substitution of one person for another were resorted to for the purpose of evading the difficulties raised by the Authorities in this respect. Amongst the agricultural classes there has always been a tendency towards the adoption of adults rather than children in order to secure the advantage of additional adult labour, and this is the explanation of the curious custom till quite recently prevailing in certain districts of Japan which had the effect of establishing a kind of primogeniture in favour of females.

any restriction whatsoever, appear to have been imposed until recent legislation, except that the interests of the family, as apart from the individual, were guarded by the exclusion from adoption of the heir to the headship of a family, and the preference given in adoption to relatives over strangers. This laxity led to abuses of various kinds, and produced such anomalies as the adoption of persons by their juniors in age, and of adults by children; and the adoption of brothers, and of relatives in almost every degree of kinship, created that bewildering confusion of relationship which is the despair of the student of Japanese history.

Adoption in Japan was formerly, as in Roman law, the act of one individual, and not, as it now is in the case of married persons, of two. Women are no longer debarred from exercising the right of adoption. It is usual to adopt persons of the male sex rather than females. The adoption of females who are not minors does not occur very often and the adoption of female children when it takes place is usually followed by the adoption of a person of the male sex, who becomes her husband when she reaches a marriageable age. The adoption of persons of the male sex is effected in two ways. There is the simple adoption, in the absence of male heirs, of a male, who may, or may not, subsequently marry a member of the adoptive family. And there is what is perhaps the most common form of all,

namely, the adoption of a person of the male sex with a view to his marriage with a daughter of the adoptive parent. The marriage and adoption may be simultaneous, or the marriage may, if the adopted person is very young, take place after the lapse of some years, but only in the former case is the term *muko-yōshi* now strictly applicable to the person thus adopted. The adoption of a married couple, which is not very common, occurs usually in cases where the adoptive parents are advanced in years.

There is no ceremony in adoption. It may be effected either by registration, during the lifetime of the person adopting, or by will. In the former case notice, which may be either verbal or written, is given to a registrar by the parties to the adoption, and by two witnesses who are of age. In the latter case similar notice must be given without delay after the testator's death by the person to be adopted, or, in the case of persons under fifteen years of age, by the person or persons who act on behalf of the person adopted, and two witnesses who are of age. If the adoption is effected by registration, it takes effect from the date on which notice is given to the registrar; if by will, it takes effect retrospectively from the date of the testator's death. When the registrar has satisfied himself that the adoption is in accordance with the provisions of the law, the name of the adopted person is

entered in the register of the adoptive family, and expunged from the register in which it was previously inscribed.

A person in order to adopt must be of age. Neither an ascendant nor one who is senior in age can be adopted. A guardian can only adopt a ward by will, and the heir to the headship of a family cannot be adopted except in special cases, and can only adopt a person of the male sex when it is done for the purpose of making him a son-in-law. Except in cases where the person adopting is unmarried, or where one of two married persons adopts the child of the other, adoption is the joint act of the adoptive parents.

No one who is not the head of a family, whatever his or her age may be, can adopt, or be adopted, without the consent of the head of the family. A person whose parents are alive cannot adopt without their consent. A person of the age of fifteen, or older, whose parents are alive, cannot be adopted without their consent. For the adoption of a person under the age of fifteen the consent of the parents on his or on her behalf is necessary, and in certain cases, the approval of a family council. If a person who has entered another family by adoption, or marriage, wishes to be re-adopted and enter another family, the consent of the parents in the original family must be obtained.

An adopted person takes the surname of the adoptive parent or parents.

Like marriage, adoption depends for its validity on registration and the intention of the parties: failing either the adoption is invalid.

The tie of adoption is severable by annulment, and by dissolution.

For annulment of adoption the intervention of a court of law is necessary. Adoptions which contravene the provisions of Articles 837-42, and 844-6, inclusive, may be annulled by a court of law on the application of either of the parties, the adoptive parent, or parents, or his, her, or their legal representatives, the adopted person, or one of his true relatives, a consort who has not consented to it, the head of the family, or a relative, according to the requirements of the law in a particular case. In adoption, as in marriage, the contravention of provisions of the law other than those relating to registration, and the intention of the parties, does not necessarily invalidate the adoption, which continues to have effect until an order of a court for its annulment has been issued.

Dissolution of adoption takes place in two ways: by arrangement between the parties to the adoption,—or, in cases where the adopted person is under the age of fifteen, between the adoptive parent, or parents, and the person or persons whose consent is necessary on

behalf of the adopted person,—and by judicial decree. But after the death of the adoptive parents an adopted person may dissolve the adoption with the consent of the head of the family.

Dissolution of adoption by arrangement is effected in the same way as adoption. When the registrar who receives the notice has satisfied himself that the dissolution is in accordance with the provisions of the law, the name of the person whose adoption has been dissolved is expunged from the register of the adoptive family, and is re-inscribed in the register of the family to which he or she originally belonged, unless the person in question has been debarred* from returning thereto.

For the dissolution of adoption by arrangement persons under the age of twenty-five must obtain the consent of the person or persons whose consent was necessary for their adoption.

An action for dissolution of adoption may be brought by either of the parties to the adoption, or, so long as the adopted person is under the age of fifteen, by the person or persons whose consent to the adoption on behalf of the person adopted was necessary. The grounds for such actions, several of which are also

* See remarks on divorce.

grounds for divorce, include cruelty, desertion, disappearance, cruelty of the adopted person to his, or her, own lineal ascendant, cruelty received by the adopted person from a lineal ascendant of the adoptive parent, and divorce or annulment of marriage in cases where the adopted person is connected with the adoptive family both by adoption and marriage. An action for dissolution of adoption cannot be brought by an adopted person who has become head of the adoptive family, nor can it be brought if the conduct which constituted the ground for dissolution has been condoned, or if it is barred by prescription, or under other circumstances mentioned in the Code.

In the cases of dissolution of adoption by arrangement, or judicial decree, of which the Code treats it is always the adopted person who leaves the adoptive family. But it not infrequently happens as a result of divorce, or for family reasons connected with succession to the headship of a family, that one or both of the adoptive parents, and not the adopted person, leave the adoptive family. Under these circumstances, though the tie of adoption is dissolved, the adopted person remains in the adoptive family.

In regard to succession, the exercise of parental rights, and all other matters, with the exception of marriage,*

* Namely the degrees of consanguinity within which marriage is prohibited.

the law makes no distinction between real and adopted children, so long as the latter remain in the adoptive family, it being expressly provided that between an adopted person and the adoptive parents and the latter's blood relatives the same relationship as that between blood relatives is established from the date of the adoption (Article 727), and that an adopted person acquires from the date of the adoption the status of a legitimate child of the adoptive parent or parents (Article 860).

**Family
Rites.**

Japanese law at present concerns itself with family rites in so far only as the inheritance of the utensils and furniture of worship is concerned. Slight, however, as the relation is, its existence shows that "the point of development at which law breaks away from religion" has not yet been reached.

The family rites now practised in Japan are so blended with Shintō and Buddhist ceremonial as to have lost their original and distinctive character. They combine the worship paid to deceased ancestors and other relatives with that paid to various Shintō deities.*

* It may seem incorrect to include under the head of *family rites* the worship paid to Shintō deities which, though household worship, has no apparent relation to the family, and it may be thought that it would have been better to have made a distinction between *household* and *family rites*. In view, however, of the fact that Shintōism

Before the introduction of Buddhism in the sixth century each household had its *kamidana*, or Shintō altar, which is a plain wooden shelf. On this the cenotaphs of deceased members of the family were placed. The adoption of Buddhism led to the introduction of a *butsudan*, or Buddhist altar, which is a miniature shrine of wood, and to this the ancestral cenotaphs were transferred. But the Shintō altar remained, and served as the depository of charms from the chief Shintō Shrine, the *Daijingu* of Isé, and of charms from the Shrines dedicated to the various tutelary deities of members of the family, and in spite of the revival of Shintōism which accompanied the Restoration of 1868 the two altars with their respective uses have remained unchanged.

The rites conducted vary with the professed religion of the family, and to some extent also according to the inclinations of the members of each household, their performance in the strictest detail being confined to the upper classes and wealthy farmers. Amongst

in its origin was a form of ancestor worship, it has seemed to me on the whole better to adopt the treatment I have chosen.

Again the term *household rites*, as being in this context a wider term, is for some reasons preferable to the term *family rites*; but its use would have obscured the relation of the family to these rites, which is the point of essential importance.

It may also appear to some scholars to be open to question whether a distinction can fairly be made between the worship paid to deceased ancestors and that paid to Shintō deities, and whether it is not more correct to regard the former as being part of the latter.

the Buddhists too the rites practised by adherents of the *Shin*, or *Monto*, sect differ from those conducted by others.

The rites in the worship paid to Shintō deities consist of reverential obeisances made before the Shintō altar every morning, the lighting of a small lamp on the altar every evening, and the presentation of offerings of rice and saké on the 1st, 15th, and 28th of each month; also from time to time branches of the *Sakaki** tree are laid on the altar.

The ancestral rites performed before the Buddhist altar are as follows:—

In Shintō households, on the death of a member of the family, the cenotaph, which is a small wooden tablet bearing the posthumous name of the deceased and the date of death, is enclosed in a box which is placed before the altar on a table of white wood.† This tablet is called the *Tamashiro* or “spirit substitute.” Twice a year, in spring and autumn, on the day of the month on which the deceased died offerings of food of various kinds, including fish and meat, are laid on the altar. On the 1st, 5th, 10th, 20th, 30th, 40th, 50th, and 100th anniversaries of the

* *Cleyera japonica*.

† When the cenotaphs become too numerous, one or two tablets are made to serve for all.

death a religious service is held in the house. To this relatives and friends are invited. On these occasions a feast is provided, and it is usual, but not necessary, for a Shintō priest to be in attendance.

In Buddhist households on the death of a member of the family the cenotaph, which is termed the *I-hai*, or "tablet of rank," is placed directly on the altar without the accessories of the box and table used in Shintō households. The altar is never without flowers, and offerings of tea and rice are made and incense sticks lighted every morning. On the 1st, 2nd, 7th, 13th, 23rd, 33rd, 60th and 100dth anniversaries of the death a religious service is held in the family temple or in the house. If in the latter, a Buddhist priest officiates, and relatives and friends are invited. As in the case of Shintō households, a feast is also provided on these occasions. Again on the 15th* July in each year, when the *Bon* Festival, or "Festival in memory of the dead," is held, offerings of vermicelli and vegetables of various kinds are made. During this festival it is customary for the members of the household to repair in a body to the ancestral tombs for the purpose of placing flowers and branches of the *Shikimi*† tree upon them, and of praying

* Strictly speaking from the evening of the 13th to midnight on the 16th.

† *Illicium religiosum*.

at the adjacent temple; it is also customary in many households to call in a priest to hold a special service in the house.

Adherents of the Shin sect of Buddhists do not celebrate the *Bon* Festival, and the offerings of food include fish and meat and are supposed to be made not to the spirits of the dead but to *Amida Niōrai* the patron saint and founder of the sect.

The other features of the family system which remain to be noticed are, with one exception, peculiar to Japan. They are the position occupied by the head of a family, succession,* abdication, family councils, marriage, and registration.

In the Roman family system the authority of the head of a family as a thing apart from parental authority

**Position
of Head of
a Family.**

* Strictly speaking this should read *succession to the headship of a family*, for it is this of course and not *succession* which is peculiar to Japan. The inclusion in this Introduction of succession to property and wills is, I am aware, inconsistent with the statement made in the passage to which this note is attached; but in view of the advantage in point of clearness to be gained by dealing with the whole subject, and not merely one branch of it, I have decided to adopt the wider treatment.

was unknown. There was only the *patria potestas*, which began and ended with kinship either real or fictitious. In Japan parental authority and the authority exercised by the head of a family are quite distinct, but the two may be vested in the same individual, who may be a woman, and when vested in different individuals they represent a sort of *condominium*, as, for instance, in cases where the consent not only of the parent but of the head of the family is required.

The head of a family exercises authority over all those whom the law recognizes as members of the family.* It is by no means necessary that these should form part of his or her household for, as has already been explained, the group represented by the word family in this context may embrace several households; nor need they be relatives, though usually some tie of kinship exists. This authority includes the right of consent to the marriage and divorce, the adoption and the dissolution of adoption, of each member of the family, the right of determining his or her place of residence, and the right of expelling such person from the family, or of forbidding his or her return to it. He has also the right of succession to property in default of other heirs. But the headship of a family carries

* And in cases of re-adoption this authority extends to a person who is no longer a member of the family.

with it also duties and responsibilities, the duty of supporting indigent members of the family, the duty under certain circumstances of guardianship, and responsibility for the debts of all.

Japanese law recognizes two kinds of succession, succession to the headship of a family, and succession to property.

Succession.

Between the Roman *emptor familiae* and the heir to the headship of a family in Japan there is nothing in common beyond the prominence given to the family in each case. The *emptor familiae* inherited everything. It is otherwise with the heir to the headship of a family. Dr. Weipert points out in his treatise that the question as to what property goes with succession to the headship of a family has been decided in various ways in the course of the development of Japanese jurisprudence, and he explains in detail the changes which have occurred. As the law now stands, the heir to the headship of a family may inherit all the property, but he is only entitled as of right to what is known as the "heir's portion." This varies in accordance with the relationship of the heir to the person succeeded to. But the question of the devolution of property in connection with succession to the headship of a family is after all a matter of only secondary importance. The primary consideration is the continuity of the family. The new

head of the family succeeds to all the rights and duties, except when these are of a personal and exclusive nature, of the predecessor, whose legal personality is regarded as passing from the moment of his death, abdication, or loss of nationality, to the successor. Thus the continuity of the family is maintained, and as special value has always attached to succession in the direct line, in default of natural heirs the fiction of adoption steps in to preserve the theory of direct lineal succession.

Succession to the headship of a family is limited, save in exceptional cases, to persons who are "members of the family." It occurs in the case of both sexes by death, abdication, and loss of nationality, also, in the case of males only, by the annulment of marriage or adoption, and also, in the case of females only, by the marriage of a woman with a husband who enters her family, and by the divorce of such husband.

The order of succession is as follows:—

1. Lineal descendants who are distinguished from other heirs in the Code by the title of "legal heirs." Amongst them the nearest relative comes first, males are preferred to females, legitimate children, if males, rank before *shoshi*,* and both the last-named, even though

* See Note on page 2 of Code.

females, come before illegitimate children.* In the event of the death of a lineal descendant, who would, had he or she lived, have become heir, occurring before that of the person succeeded to, the heirship devolves on his, or her, lineal descendant.

2. If there is no lineal descendant, the person succeeded to is at liberty to appoint an heir.

3. If there is neither a legal nor an appointed heir, the father or mother who is in the family, or the family council, as the case may be, chooses an heir from among persons who are members of the family in accordance with the following order, which, however, may in certain cases be departed from.

When the person succeeded to is a male :—

- a). The wife, if she was originally a member of the family.
- b). Brothers.
- c). Sisters.
- d). The wife, if she was not originally a member of the family.
- e). Lineal descendants of a brother or sister.

When the person succeeded to is a female :—

- a). Brothers.
- b). Sisters.

* This can only occur in cases where the ancestor is a woman.

c). The husband.

d). Lineal descendants of a brother or sister.

4. If no heir is appointed by the father, mother, or family council, in accordance with the above-mentioned order, the ascendant who is the next of kin succeeds.

5. Failing an ascendant the family council chooses an heir from among other relatives, who may be heads of cadet branches of the family, or, in certain cases, from outside the circle of relatives.

The heir to the headship of a family inherits as part of the special rights of succession the genealogical records of the family, the utensils and furniture used in the performance of family rites, and the family tombs.

Heirs may be disinherited during the lifetime of the person succeeded to, or by will. The Code enumerates several grounds on which the disinheritance of a "legal heir" can take place.

Unlike succession to the headship of a family, succession to property is not limited to persons who are "members of the family," but it only occurs, to use the language of the Code, "by the death of a member of the family." As in the other kind of succession, an heir is only entitled as of right to what is known as "the heir's portion", which varies according to the relationship of the heir to the person succeeded to.

The order of succession is as follows:—

1. Lineal descendants.

Amongst these the nearest relative is preferred. Persons in the same degree of relationship rank together. As in succession to the headship of a family, in the event of an heir predeceasing the person succeeded to, the heirship devolves on his or her lineal descendant.

2. After lineal descendants come, in the order named, the consort, lineal ascendants, and the head of the family.

Heirs who rank together share equally in the succession. But the shares of succession of a *Shoshi*,* and an illegitimate child, are fixed at half the share of a legitimate child.

The will of modern law was in former times in Japan simply a kind of solemn instruction left by a deceased person for the guidance of the heir, or other relatives. The place of wills was occupied by adoption, as in the earlier Roman law, and to some extent this is still the case.

Wills.

Following the classification of the French Code wills are divided into three kinds.

1. Holographic wills.

2. Wills drawn up by a notary.

* See note on page 2 of Code.

3. Wills by secret deed (the will *mystique* of French law).

A testator may dispose of the whole or any part of his property by will, provided the provisions relating to "the heir's portion" are not contravened.

Abdication.

What for want of a better word is generally known to foreigners by the term abdication is the retirement of a person from his position as head of a family. As women are permitted by law to become heads of families, it follows that abdication is no prerogative of the male sex.

Japanese scholars* who have investigated the subject agree in tracing the origin of the present custom to the abdication of Japanese sovereigns, instances of which occur at an early period of Japanese history. These earlier abdications were independent of religious influences, but with the advent of Buddhism abdication entered upon a new phase. In imitation, it

* The subject of abdication has been very fully dealt with by Professor Shigeno in a lecture entitled "The evils of succession through abdication to the headship of a family, and of adoption" delivered on the 10th April, 1886, and published in the "Gakushi Kwaiin Zasshi" (Magazine of the Society of scholars) and reproduced in August 1893 in the Historical Magazine. A resumé by Mr. Walter Denig of this essay appeared in Vol. XV. Part I. of the Transactions of the Asiatic Society of Japan.

Professor Hōzumi has also treated the same subject at great length in his book entitled "Treatise on Abdication" (*In-kiō-ron*). In this he does not confine himself to abdication as known in Japan, but discusses the subject in its widest aspects.

would seem, of the retirement for the purpose of religious contemplation of the Head Priests of Buddhist monasteries, abdicating sovereigns shaved their heads and entered the priesthood, and when subsequently the custom came to be employed for political purposes the cloak of religion was retained. From the throne the custom spread to Regents and high officers of state, and so universal had its observance amongst officials of the higher ranks become in the 12th Century that, as Professor Shigeno states, it was almost the rule for such persons to retire from the world at the age of 40, or 50, and nominally enter the priesthood, both the act and the person performing it being termed *niū dō*. In the course of time the custom of abdication ceased to be confined to officials, and extended to the feudal nobility and the military class generally, whence it spread through the nation, and at this stage of its transition its connection with the phase it finally assumed becomes clear. But with its extension beyond the circle of official dignitaries, and its consequent severance from tradition and religious associations, whether real or nominal, abdication changed its name. It was no longer termed *niū dō* but *in-kio*, the old word being retained only in its strict religious meaning; and *in-kio* is the term in use to-day.

In spite of the religious origin of abdication, its connection with religion has long since vanished, and

it may be said without fear of contradiction that the Japanese of to-day when he or she abdicates is in no way actuated by the feeling which impelled European monarchs in past times to end their days in the seclusion of the cloister, and which finds expression to-day in the Irish phrase "to make one's soul." Apart from the influence of traditional convention, which counts for something and also explains the great hold on the nation which the custom has acquired, the motive seems to be somewhat akin to that which leads people in some Western countries to retire from active life at an age when bodily infirmity cannot be adduced as the reason. But with this great difference, that in the one case, that of Western countries, it is the business, or profession,—the active work of life, which is relinquished, the position of the individual *vis-a-vis* the family being unaffected, in the other case it is the position of head of the family which is relinquished, with the result of the complete effacement of the individual so far as the family is concerned. Moreover, although abdication usually implies the abandonment of the business, or profession, of the person who abdicates, this does not necessarily follow, abdication being in no way incompatible with the continuation of the active pursuits in which the person in question is engaged. And if an excuse be needed in either case, there would seem to be more for the Japanese head of a family, who, in addition

to the duties and responsibilities incumbent upon his position, has to bear the brunt of the tedious ceremonies and observances which characterize family life in Japan, and are a severe tax upon time and energies, while at the same time he is fettered by the restrictions upon individual freedom of action imposed by the family system. That in many cases the reason for abdication lies in the wish to escape from the tyrannical calls of family life, rather than in the mere desire for idleness and ease, is shown by the fact that just as in past times the abdication of an Emperor, a regent, or a state dignitary, was often the signal for renewed activity on his part so in modern Japanese life the period of a person's greatest activity not infrequently dates from the time of his withdrawal from the headship of his family.

As in the case of adoption, abdication is now more strictly regulated by law than formerly. Women are permitted to abdicate irrespective of age, subject to the consent of their husbands, but a man is not allowed to abdicate unless he has attained the age of sixty, or unless the heir who succeeds him in the headship of the family has accepted the succession unconditionally; or unless in certain cases the consent of a court of law has been obtained.

**Family
Councils.**

In including family councils amongst those features of the family system which are peculiar to Japan the fact that something of a similar type exists in other countries has not been overlooked. It needs, however, but a slight acquaintance with the subject to perceive that family councils in Japan are very different from what is known by the same name elsewhere. With us a family council means a more or less informal meeting of relatives for the discussion of some family matter,—a meeting which has no legal status, and the decisions of which, unless consecrated by legal procedure of some sort, have no binding force; and even in France, where a wider extension is given to the family council, and it is recognized by law, the position it occupies both legally and socially is a very subordinate one. In Japan, on the other hand, the importance of family councils can scarcely be overrated. They usurp many of the functions which we are accustomed to associate with courts of law, and, uniting in themselves rights and duties relegated elsewhere to distinct and separate spheres of authority, watch over the interests both of the family and the individual. It is true that in all cases there is an ultimate appeal from the decision of a family council to a court of law, but, apart from the natural reluctance of most people to take this step, the chances of success are too remote to favour its frequent adoption.

As has already been explained, family councils

represent the larger of the two groups into which Japanese society may be regarded as divided. In former times the action of a family council was independent of the judiciary. Under the present Code the selection of the members rests with a court of law, except in certain cases where a testator may appoint them in his will.

Family councils are of two kinds, those established for the determination of some particular question, and those which are established for the purpose of taking charge of the affairs of persons without legal capacity. The former are dissolved when the question under discussion has been settled; the latter continue until the legal incapacity ceases. In both cases the council is originally summoned through a court of law, but in the case of the latter the intervention of the court is not required for subsequent meetings.

A family council consists of three or more members. In addition to relatives these members may, in cases where the council is convened for the purpose of determining some particular question, include the person whose affairs are primarily under discussion, or some person who is connected with him but not sufficiently closely to constitute relationship as defined in Article 725. Guardians, superintendents of guardianship, and curators, and minors and other persons who are ineligible for guardianship, cannot serve on it. Decision is by majority, and no member can vote in a matter in

which his own interests are concerned.

The functions of family councils include the granting of consent under certain circumstances to marriage and adoption; the granting of consent to acts performed by a mother on behalf of a child who is a minor, and over whom she exercises parental rights, or the approval of consent granted by her for the performance of such acts by the child; the protection of the interests of a child, who is a minor, in the case of acts in regard to which the interests of the parents and child conflict; the supervision of the affairs of persons without legal capacity, including minors; the choice in certain cases of an heir to the headship of a family; and the appointment and control of guardians, and superintendents of guardianship.

The power vested in family councils in no way diminishes the influence brought to bear upon an individual by the circle of relatives from whom they are chosen, but rather serves to increase it; nor does their existence as a species of family tribunal, so to speak, preclude the settlement of many family matters in an informal manner without recourse to the somewhat elaborate machinery provided by the law.

Marriage. Before the publication of the present Code the question of marriage was regulated by fragmentary

enactments, issued from time to time, which dealt with various points connected with marriage and divorce, but never with the subject as a whole.

Validity of marriage in Japan is quite independent of the marriage ceremony, which is a purely social function, having no connection whatsoever with law beyond the somewhat remote contingency of its being adducible as evidence of a marriage having taken place. Marriage is effected simply by registration.* This, and an intention on the part of the parties to marry, are all that is required to constitute a valid marriage.† Notice is given to a registrar by both parties and two witnesses who are of age, and this notice may be either verbal or written. When the registrar has satisfied himself that the marriage is in accordance with the provisions of the law, the name of the person entering the other's family is inscribed in the register of that family, and is expunged from the register of the family to which he or she previously belonged.

The marriageable age for men is seventeen‡ years; that for women fifteen.‡ Marriage cannot take place be-

* It actually *takes effect* when notice is given to a registrar (Article 775).

† Conversely, however, failure to give notice to a registrar, and absence of intention to marry are not the only grounds for invalidity. Marriages between relatives within the prohibited degrees of consanguinity are *ipso facto* invalid, and so is a remarriage contracted and a person already married and undivorced.

‡ This is the full age, not age according to Japanese reckoning.

tween lineal blood relatives, or relatives by marriage in the direct line, or between collateral relatives within three degrees of relationship, but this prohibition does not extend to marriages between adopted persons and their collateral relatives by adoption.

No one who is not the head of a family, whatever his or her age may be, can marry without the consent of the head of the family. Men under the age of thirty, and women under the age of twenty-five must obtain for their marriage the consent of the parents in the family, and for the marriage of minors in certain cases the consent of the guardian or of a family council is necessary. In cases where persons who have entered a family by marriage wish to remarry and enter another family, the consent both of the head of the family they have entered by marriage and of the head of the family to which they originally belonged must be obtained. A woman whose marriage has been dissolved, or annulled, cannot remarry until after the expiration of six months from the date of the dissolution or annulment of her previous marriage.

Japanese law recognizes two kinds of divorce, divorce by arrangement between the parties, and judicial divorce.

Divorce by arrangement is effected in the same way as marriage. When the registrar who receives the notice has satisfied himself that the divorce is in

conformity with the provisions of the law, the name of the person leaving the other's family is expunged from the register of that family, and is re-inscribed in the register of the family to which he or she originally belonged. If permission to return to the original family is withheld by the head of that family, the person in question establishes a new family, obtaining new registration as head of the family thus established. In cases where the divorced person leaving the family had, upon marrying, abolished his or her original family, or where such family has otherwise come to an end so that return to it is impossible, the family in question may be resuscitated.

For divorce by arrangement persons under twenty-five years of age must obtain the consent of the person, or persons, whose consent was necessary for their marriage.

Judicial divorce is granted on several grounds which are specified in the Code. These include cruelty of one of the parties to his or her lineal ascendants, cruelty received by one of the parties from the lineal ascendants of the other, and the dissolution or annulment of adoption in cases where the adopted person is connected with the adoptive family both by marriage and adoption.

Besides the dissolution of marriage in the two ways above-mentioned, marriages which contravene the

provisions of Articles 765-70, inclusive, may, subject to certain restrictions, be annulled by a court of law on the application of either of the parties, the head of a family, a relative, or a public prosecutor. It follows that the contravention of provisions of the Code other than those relating to registration and the intention of the parties does not necessarily invalidate a marriage. Such marriages are valid as marriages until an order of a court for their annulment has been issued.

**Regis-
tration.**

If proof were needed that society in Japan centres round the family, and not the individual, that proof would be supplied by the system of registration alone.

The system is in its origin Chinese, having, it is generally understood, been introduced from China about the middle of the 7th century, and, in spite of the modifications which it has since undergone, the ancient name *Ko-seki*, borrowed from the Chinese language, is still retained. Whatever the object of its introduction may have been, whether simply to obtain a census of the population, or, as is supposed by some, to facilitate the collection of revenue, it would seem according to the "*Taihōriō*"* that it was employed at one

* A collection of laws published in the year 701, and quoted by Dr. Weipert in his treatise on Japanese Family Law already referred to.

time for the purpose of determining the periodical redistribution of land leased by the state to cultivators. The system ceased long ago to have any connection with the tenure of land, and became what it is now, a system of registration by means of which the state exercises a minute control over the affairs of individuals through the family. Of the process by which this change was effected nothing appears to be known, but in the course of the long interval which elapsed the name *Ko-seki* fell into disuse, being replaced by the word *nimbetsu*, and though the older word was revived for official purposes twenty-seven years ago, when the law on the subject was revised and codified, the word *nimbetsu* is still the term in more general use. There is nothing in either name which suggests the fact that the family is the basis of the registration; for *Ko-seki* signifies literally "house registration", and *nimbetsu* "separation, or classification, of individuals." It is therefore natural to suppose that in its earlier form the system was one of simply household registration, and that the change in its character was the result of its gradual adaptation to the growth and development of the family system, of which it now forms so important a part. It is registration which determines the status, and the position in regard to the family, of each individual, and which gives validity to marriage and divorce, to adoption and its dissolution

to abdication, and to succession.

The present law on the subject replaces the previous law of 1871. It was promulgated on the same day as the final two books of the Civil Code, namely on the 15th June of last year, and came into operation on the same day as the Civil Code, namely, on the 16th of the following month,* it being intended to serve as a complementary law to that Code. In accordance with that intention its provisions have been brought into careful harmony with those of the Civil Code, and at the same time its compilers have introduced changes which are aimed in the direction of giving to the registration system more of a personal and less of a family character than it has previously possessed.

The present law consequently differs from its predecessors in the fact that registration is divided into three kinds,† family registration (*ko-seki*), residential registration (*kirin-seki*), and status registration (*Mibun-tōki*). All three kinds of registration are however conducted at the same office, and by the same official,‡ who in cities divided

* But permission was given for the old books and forms to be used until the 31st. December 1893.

† The law itself only provides for family and status registration, but the provisions of the previous law relating to residential registration are retained.

‡ Before the Restoration the registration records of the military class were kept in the offices of the various Clans, and those of the *Kuge* by Court officials, while those of the rest of the nation were entrusted to the local mayors in town and country.

into districts (*ku*) is the district mayor, and in cities not divided into districts, and in towns and villages, is the mayor of the city, town, or village as the case may be, and who for the purpose in question is called the registrar, the office at which the registration is conducted being the municipal office of the locality in question. The supervision of registration matters is entrusted to one of the judges of a district court, and is governed by the rules relating to judicial administration. Each district court is also subject in regard to such matters to the higher authority of the corresponding local court (*chihō-saibansho*).

In each registration district there is a family registration book* (*ko-seki-bo*), in which are entered the names of all persons whose permanent registers (*honseki*) are established therein. The entries are arranged according to families, and according to the address of the house which the head of a family occupies *at the time of registration*. In other words a separate register is kept for each house in which the head of the household is also the head of a family, persons who are heads of households, but not heads of families, being borne on the registers of the heads of their respective families. The names entered in a family register at the time it is

**Family
Regis-
tration.**

* These are kept in duplicate, and are governed by the same detailed regulations *mutatis mutandis* as apply to status registration books (see Status Registration).

prepared under the address of a certain house are, therefore, not necessarily those of persons who are members of the particular household indicated, though it may be so in the case of a small family, all the members of which are comprised in a single household. Nor are they necessarily those of persons who were or are resident in the district. They are simply those of all persons who, irrespective of their place of residence, are members of the family of which the occupant of the house in question is the head *at the time when the family register is prepared*. The family therefore and not the household is the basis of registration; the house merely gives the locale to, or, in other words, furnishes the address for a permanent register (*honseki*), when it is first established. Each register stands in the name of the head of the family, and every person whose name is borne on it (including the head of the family) is regarded as having his permanent register in the place in question.

It was doubtless originally intended that there should be a more or less close correspondence between registration and residence, and undoubtedly before the Restoration the correspondence was closer than it now is, for though on the one hand greater facilities existed for disappearance, on the other hand registration was more localized, and the movements of the population were comparatively restricted. The abolition of the feudal system broke down the barriers which up to that time

had separated the various clans, and permitted for the first time free intercourse, and unrestricted migration from province to province. Except when a new family register is prepared, which happens when the head of a family chooses to transfer his permanent register to another place, or when a person establishes a new family, family registration and residence are now quite independent of one another. The head of a family who has established his permanent register (*honseki*) in a certain district may leave it at any moment and reside elsewhere for a term of years, or for the rest of his life, without his permanent register being affected; and his children, and other members of his family, and their descendants, may retain their permanent registers in the same place without having ever resided there. The fact, therefore, that a person has his permanent register in a certain district is no proof whatever of residence therein, for it may and usually does only shew that some former head of the family resided there at the time when the register was first prepared.

It follows that several family registers may be entered in a register book under the same address without any of the persons concerned having resided in the place of registration, and it may even happen that different heads of families may be registered successively as occupants of a certain house long after the house in question has

been demolished, and the land on which it stood has been appropriated for cultivation. Hence the expression that a person's "permanent register is in *hatake*."*

• Whenever a person changes his permanent register the register on which he was previously borne is called his "*gen-seki*" or "original permanent register," and this is the register referred to in the term *fuku-seki*.†

The particulars which are entered in a family register are somewhat voluminous, and include the names of the present and previous heads of the family, and of each member of the family; the class (whether noble, *Shizoku*‡ or *Heimin*) of the present head of the family, and the place where his permanent register is established; the dates of birth of the head and each member of the family; a statement as to how the head and members of the family came to occupy their respective positions, unless the cause is birth; the names of the parents of the head and of each member of the family, and the connection which exists between each and the parents

* Cultivated land.

† Returning to one's register, and so returning to one's original family.

‡ *Shizaku* is equivalent to our word *gentleman* though the two words do not exactly correspond; the term *Hei-min* is untranslatable. It was introduced after the Restoration as a comprehensive term to indicate those classes of the people who were formerly divided into the three categories of farmers, artisans and merchants, and also those who formerly belonged to the *yeta*, or pariah caste.

of the other ; and a number of other details into which it is unnecessary to enter.

The order in which these particulars must be entered is as follows :—

1. Head of the family.
2. His or her lineal ascendants.
3. His or her consort.
4. His or her lineal descendants, and their consorts, if any.
5. His or her collateral relatives and their consorts, if any.
6. Persons not relatives.

In the case of lineal ascendants in different degrees of relationship those in the *furthest* degree, and in the case of lineal descendants in different degrees of relationship, those in the *nearest* degree, are entered first.

The gap caused by the want of correspondence between family registration and residence is filled by residential registration. Any person who resides in a district other than that in which his permanent register is established is required to give notice of such residence within ten days of its commencement to the registrar of the district, furnishing particulars regarding himself and his wife and family, if he has any, and they are living with him, his present place of abode, and the place where his permanent register is established, and other details. The registrar enters the facts in his residential register

**Residential
Registration.**

L.

INTRODUCTION.

(*niū-kiriū-bo*, or register for entering notices of taking up residence), and reports the matter to the registrar of the place where the person in question has established his permanent register, who in his turn makes a note of the fact in the permanent register of such person. Similar notice is given by a person on leaving a place where he has resided, and the fact is duly recorded by the registrars concerned.

**Status
Registration.**

The matters which come under status registration are, in the order in which they appear in the law, Birth, Non-recognition of a legitimate* child, Recognition of an illegitimate child, Adoption, Dissolution of adoption, Marriage, Divorce, Guardianship, Abdication, Disappearance, Death, Succession to the headship of a family, Disinheritance of the presumptive heir to the headship of a family, Appointment of an heir to the headship of a family, Entrance into a family (*Niū-seki*), Expulsion from a family (*Ri-seki*), Prohibition to return to a family, Establishment of a fresh branch of a family, Resuscitation of a family which has died out, Acquisition and Loss of nationality, Change of name, or class, and Alteration of entries regarding status.

Status registration books are kept in duplicate and are of two kinds, books used for entries in regard to

* Namely a child which in the absence of legal steps taken by the mother's husband would be regarded as legitimate.

status made in the case of persons whose permanent registers are established in the district of the registrar receiving the notices, and books used for entries in regard to status made in the case of persons whose permanent registers are not in the district of the registrar to whom the notices in question are given. These books are divided into separate volumes corresponding with the various subjects of status registration. Fresh books are prepared every year, and before being used are sent to the supervising judicial officer, who affixes the seal of his office to every page, and certifies on the back of each volume the number of pages it contains. The originals of all status registration books are preserved in the registration office; the duplicates are preserved in the local court which has jurisdiction over the supervising district court. Books in present use are not allowed to leave a registration office, but perusal and the taking of extracts from them are permitted. Entries in regard to status are made upon notice verbal, or written, given either by, or on behalf of, the person upon whom the duty of giving notice is incumbent, or at the request of a court of law, or in accordance with special provisions of the law. .

Subject to some few exceptions, notice in regard to matters coming under status registration is given to the registrar of the district in which the person giving the notice resides; the registrar makes the necessary entry in

his register-book, and gives notice of the fact to the registrar of the place in which the permanent register which the notice concerns is established.

The requirements of the law as to the person by whom notice must be given, and the particulars to be furnished, vary with each subject. Without going more fully into the voluminous details of each matter in regard to which notice has to be given, it may be interesting to take two instances which will serve to shew generally the character of the particulars which the law requires. And for this purpose it may be well to select Entrance into and Expulsion from a family.

In the case of entrance into a family, the notice to be given* must state the following particulars :—

1. The name, date of birth, business or profession, and place of permanent registration of the head of the family into which entrance is contemplated.

2. The relationship subsisting between the head of the family in question, or a member of it, and the person about to enter it.

3. If the person entering the family in question is abolishing his own family for this purpose, a statement of the fact.

4. If the person entering the family in question is

* This is given by the head of the family into which entrance is contemplated.

a member of another family, particulars regarding the head of that family, and the relationship or connection between the latter and the person in question.

In cases where the consent of other parties is necessary proof of such consent must be produced.

In the case of expulsion from a family the notice* must state the following particulars :—

1. The name, date of birth, and business, or profession, of the person about to be expelled.

2. The reason for such expulsion, and when the reason first arose.

3. If any other person leaves the family together with the person to be expelled, particulars regarding such person, and the connection subsisting between the two.

If, in consequence of expulsion, the person expelled establishes a new family, he or she must similarly give notice stating :—

1. Particulars regarding the head of the family from which he or she has been expelled.

2. The connection subsisting between the two.

3. Particulars regarding any person, or persons, entering the new family which he or she is establishing, and the connection subsisting between him or her and the person, or persons, concerned.

* This is given by the head of the family from which the person in question is expelled.

It will be seen that the leading idea to be gathered from a study of the Japanese family system is the subordination of the individual to the family. The notion of an individual existing apart from and independently of the family is one which Japanese family law does not entertain. It is the individual in his relation to the family, rather than the individual himself, with which both the law and the society which made it are concerned. Naturally therefore the law regards a person primarily not as an individual, but as either the head or a member of a family. One of these two capacities is acquired at birth, and one or other is always present, to the extinction of individuality as we understand it.

The influence of the family dominates every relation in life. Is a child born, the question of paternity is merged in the more important consideration of the family to which it is to belong. Is it a question of parental authority, the family, and not the natural tie of relationship, determines its exercise. Is it a matter of succession, it is the family and not the individual which is the central idea. And so with other matters,—with marriage and divorce, adoption and its dissolution. Their importance lies rather in their effect upon the particular family or families in question than in their effect upon the relations between the individuals concerned.*

* This to some extent explains the looseness of the marriage

It would be easy to multiply instances shewing the extent to which respect for the family is carried. Let it suffice to name only two, which may serve also to shew the peculiar working of the system : the separation of children from the father when the latter leaves a family of which he was a member when the children were born; and the posthumous legitimization of children. In the first instance, when children are born to a man who becomes a member of a family, in the legal sense of the expression, by marriage or adoption, these children may be said to belong to the family rather than to him, for, if he leaves it, his children stay behind. In the second instance, a person may be born and die illegitimate ; but it is possible for the parents by their subsequent marriage to legitimize the deceased, and ensure the continuity of the family by settling the succession upon a grandchild of whom the deceased was the father. And the impersonal character which pervades the whole system is apparent in the provision under which, pending the minority of a person who is both a parent and the head of a family, his rights in this dual capacity do not remain in abeyance, but are exercised for him by a parent, or guardian, or, in the last resort, by a family council.

tie, in spite of the fact that consideration for the family often acts as a check upon divorce,

With us a member of a family usually regards his connection with it as a mere accident of birth, by its very nature impermanent, to be shaken off whenever it suits him to do so, and as rarely, if ever, to be allowed to interfere with the play of his individual¹ wishes or energies. In Japan, if it is too much to say that the individual exists for the family and not the family for the individual, it is at least correct to say that the actions of an individual are to a large extent controlled by the family to which he belongs, and that to the interests of that family his own are subordinated during the whole of his life.

It is surprising that individuality should survive at all under the circumstances which surround it. Until he is of age, and even afterwards, so long as he does not earn an independent livelihood, a person is subject to parental authority, and the same person until such time as he becomes the head of a family himself, which may never happen, is also subject to the authority of the head of the family to which he belongs. Nor even when such person becomes the head of a family, is of age, and is earning an independent subsistence, does he obtain complete liberty of action. He still remains subject in certain matters to the control of family councils, which may intervene in the interests of the family, or of some member of it, and open to the influence, none the less real because its operation is silent and has no

legal sanction behind it, of the large circle of relatives whose opinion is for him what public opinion is for us. Moreover, the effects of parental influence reach far beyond the legal limitations of parental authority. The doctrine of filial piety is a religion of daily life, governing conduct to an extent which it is not easy to exaggerate. To the wishes and well-being of the parent everything is held ready to be sacrificed, place, prospects in life, and even life itself. Not what will the world think? but what will the family or parents say? is the idea which naturally occurs to a person under these conditions.

It must not be supposed for a moment that the conditions described are regarded as in any way hard by the individual who is subject to them. More than content with things as they are, he is ready to give his sympathy freely to others whom he conceives to be less happily situated than himself; and it never enters into his philosophy to think that he has not as complete liberty of action as from his point of view seems desirable, or even proper.

And at the same time it is well to remember that family law has more of the elasticity of custom than of the rigidity of law, that a code need not be invoked though it exist, and that the present transitional condition of Japanese society may favour a rule being honoured more in the breach than in the observance; and in the light of these considerations there is reason to think that

the restrictions imposed on individual liberty of action may not in practice be so onerous as in theory they appear.

It follows, however, that the ideals of a nation where the family and not the individual is the unit of society must be very different from those of communities where society rests on another basis. To us the drawbacks of a system "so careless of the single life" are obvious. Not only is a check applied to individual energy and ambition, with the result that life in losing something of its value parts also with some of its reality and earnestness, its purposeful vigour, but a certain loss of moral fibre must, it would seem, result from the weakening of the sense of individual responsibility, until a point may be reached when acts in themselves reprehensible are apt to be condoned if committed in the interests of the family.

On the whole the system as it works in Japan is nevertheless not wholly unbeneficial. It helps the weak against the strong and assists* the indigent; it discourages litigation and family scandals; and the very subjec-

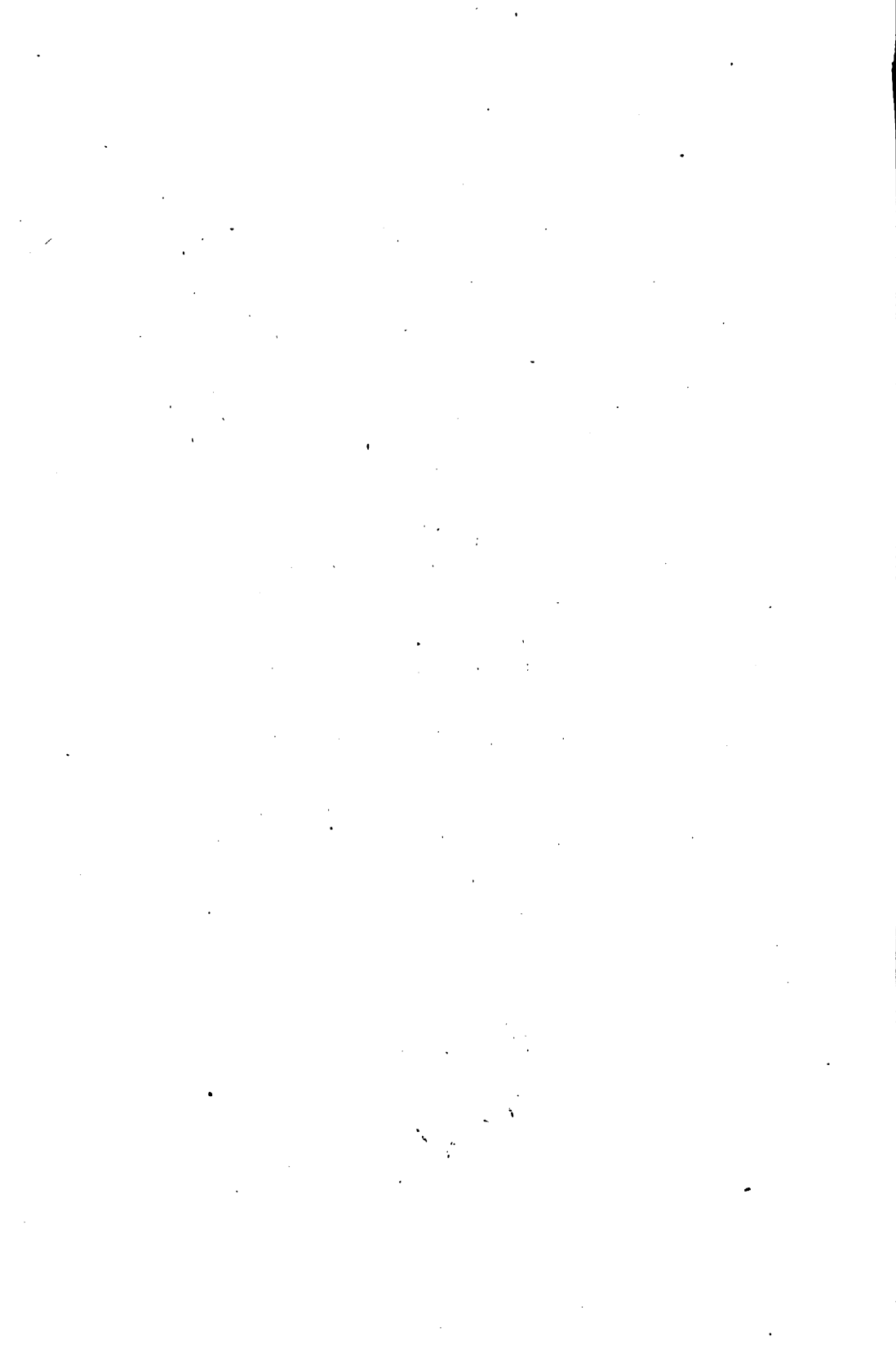
* See Chapter VIII of the Book on Kindred.

Although from our point of view the *duty of support* which is perhaps important enough to have justified its inclusion as a separate feature of the family system in Japan, may be considered to handicap the individual rather heavily in the race of life, and to be pushed to extremes quite contrary to our ethical notions where marriage is concerned, there is much to be said in favour of a system which throws the primary duty of supporting the indigent on the family, and not on the community at large.

tion and self-repression in which the individual is schooled favour the growth of virtues for which the world is certainly none the poorer.

Whether in view of the astonishing changes which have taken place in the course of a single generation, and are still proceeding with a rapidity as yet undiminished, codification be altogether wise may be open to doubt, though we know that the impulse in this direction has been strengthened by reasons which do not affect legislation everywhere. Be this as it may, it is evident that the family system has entered upon the period of its decline, and the time is possibly not very far distant when the unit of society will be the same as in the West. The student of history may be allowed to think that had it not been for the reactionary tendencies which cramped Japan's national development for some centuries, the racial energy and enterprise of her people would have resulted in a very different state of society from that which is recorded in the foregoing pages.





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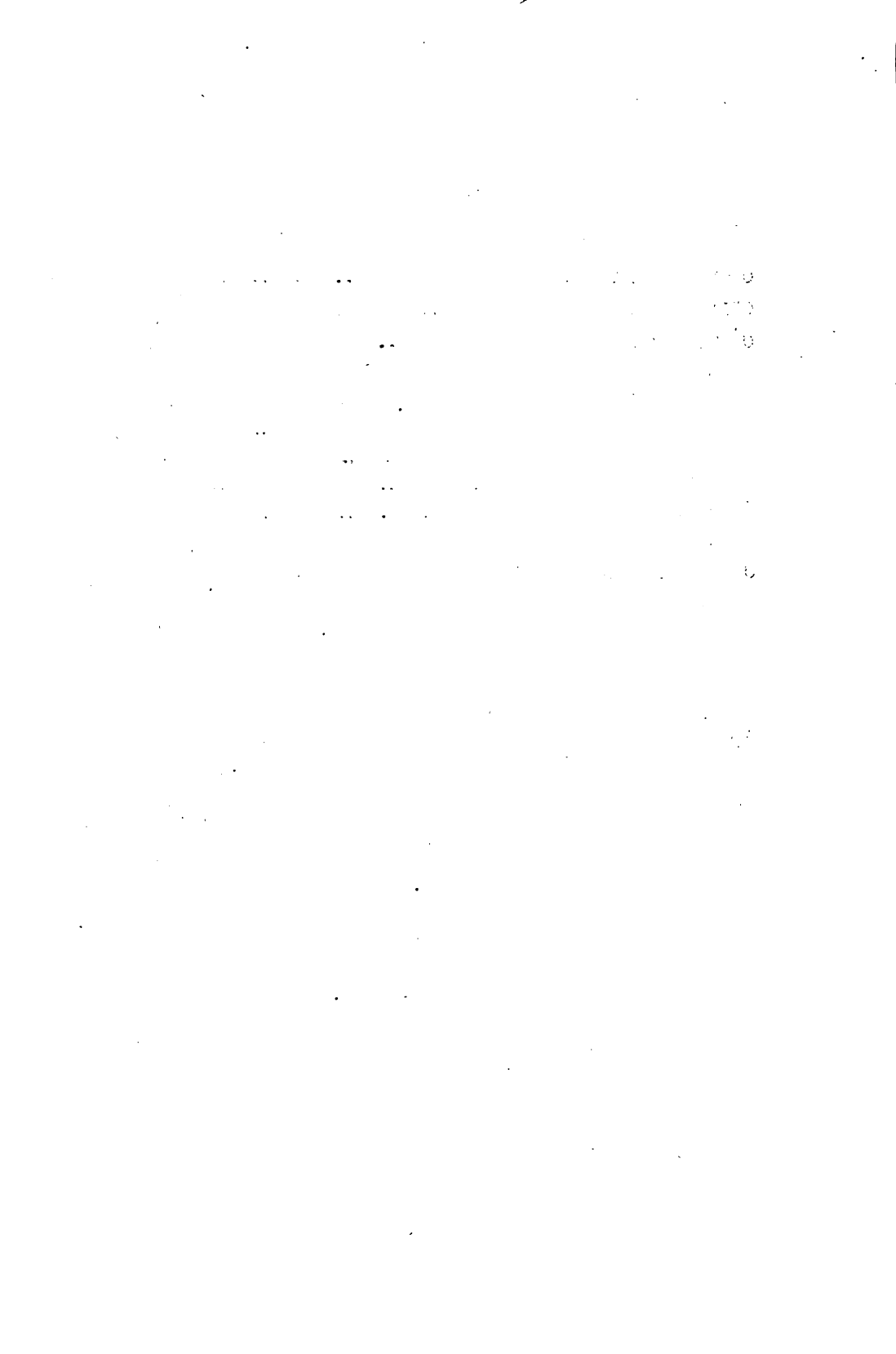
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CIVIL CODE.

法民

BOOK IV. KINDRED.*

篇四第 族親

CHAPTER I.

章一第

GENERAL RULES.

則總

725.

十二百七第
條五

The following persons are regarded as kindred* :—

さな者け左
す親はたに
族之る掲

- i. Blood relatives within six degrees of relationship. 族の等六(二)
血内親(二)
- ii. Husbands and wives. 者偶配(二)
- iii. Relatives by marriage within three degrees of relationship. 族の等三(三)
姻内親(三)

726.

十二百七第
條六

Degrees of relationship are determined by reckoning the number of generations between relatives.

定てな親親
む之算世族等
なし數間は

* Here where the context seems to call for a somewhat precise rendering I have used the word "kindred," which, though limited in its strictest sense to relations by consanguinity, includes in its wider meaning both blood relatives and relatives by affinity. Elsewhere I have preferred to use the more convenient, if vaguer, term "relatives." I have also excluded the word "kinship" throughout in favour of the word "relationship." It should be understood, however, that the words "relative" and "relatives" wherever they occur have the special and restricted sense given to the word "kindred" in Article 725.

る始者に傍
ま祖よは系
てより其親
のり同一の
世他始人親
数の祖又等
に一にはな
依人遇其定
るに配む
下其偶る

The determination of the degrees of relationship of collateral relatives depends on the number of generations working up from one relative, or his, or her, consort, to the common ancestor, and down from the common ancestor to the other relative.

十二百七第
條七

727.

なをりは血養
生同血養族子
す一族子と
の間縁の養
親に組間親
族於のに及
關け日於ひ
係るよて其

Between an adopted person and the adoptive parents and the latter's blood relatives the same relationship as that between blood relatives is established from the date of the adoption.

十二百七第
條八

728.

なを子の又繼
生一間嫡父
すのにに母母
親於於と
族けて庶繼
關るは子子
係と親とと

Between step-parents and step-children, a wife and a *sho shi*,* the same relationship as that between parent and child is established.

* An illegitimate child who is recognized (but not legitimized) by the father (see Articles 827 and 829). This term illustrates the transitional phase through which Japanese law is passing. Japanese dictionaries define *sho-shi* as the child of a concubine, and this so long as concubinage was sanctioned by the law, and the question of legitimacy never arose, was the accepted meaning of the term. The law of Japan, which in the course of its development on western lines has come to accept the principle of legitimacy, and to admit of the legitimization of children by the subsequent marriage of their parents (see Article 836), now recognizes an intermediate stage between legitimacy and illegitimacy. It is this which is represented by the term *sho-shi*, and the word has thus acquired a new meaning, being applied to all illegitimate children without distinction who are recognized by the father. Practical effect is given in the two kinds of succession to the distinction thus made between legitimate children, *sho-shi*, and illegitimate children. In succession to the headship of a family legitimate children, if males, rank before *sho-shi*, and both legitimate children and *sho-shi*, even though females, before illegitimate children. Again in succession to property the share of a *sho-shi*, or of an illegitimate child, is fixed at half the share of a legitimate child.

729.

第二百七十七條九

Relationship by marriage, and the relationship mentioned in the preceding Article, cease by divorce.

止に係の及姻
む因は親の族
り離族前關
て婚關係係

It is the same in cases where one of two married persons dies, and the survivor leaves the family.

きを配合死夫
亦去偶に亡婦
同り者於しの
したかつてた一
る其生る方
と家存場か

730.

第十三百七第七條

The relationship between an adopted person and the adoptive parents and the latter's blood relatives ceases by the dissolution of the adoption.*

て婚關血親養
止に係族及子
む因はさひと
り離の其養

If the adoptive parents leave the adoptive family, the relationship between the adopted person and such parents and the latter's own blood relatives thereby ceases.

因親血者り養
り族族及た親
て關さひるか
止係養其さ養
むは子實き家
之さ方はな
にのの其去

If the consort of an adopted person, the lineal descendant of an adopted person, or the latter's consort, leaves the adoptive family together with the adopted person in consequence of the dissolution of the adoption, the relationship between such person and the adoptive parents and the latter's blood relatives ceases thereby.

因其た因は養
り血るり其子
て族さて配の
止さき之偶配
むのはさ者偶
親其共か者
族者に養
關さ養子直
係養家の系
は親を離卑
之及去縁屬
にひりに又

731.

第十三百七第七條一

The provisions of the second clause of Article 729, and of the second clause of the preceding Article,

二前項條二第
項條及第十七
の第ひ二九百

* *Hi-yen* as used in the Code has only this meaning. As generally used it is applied to the severance either of the marriage tie, or the tie of adoption, and may therefore mean either divorce or the dissolution of adoption.

A child enters the father's family.

A child whose father cannot be ascertained enters the mother's family.

入の子れ父
る家はまの
に母る知

A child neither of whose parents can be ascertained establishes a new family.

すなはさに父
創一る知母
立家子れ共

734.

十三百七第
條四

If the father of a child leaves the family in consequence of the dissolution of adoption, or of divorce, before the child's birth, the provisions of the first clause of the preceding Article apply retrospectively to the commencement of pregnancy.

之には其婦父
を懐前家文か
適胎條をば子
用の第去離の
す始一り縁出
に項たに生
遡のる因前
り親さりに
て定きて離

The provisions of the preceding clause do not apply to cases where both parents have left the family. But if the mother has returned* to her original family before the child's birth, this rule does not apply.

きにす協共前
は復但合に項
此籍母に其の
應なかは家規
に爲子之を定
在しのを去は
らた出適り父
する生用た母
と前せるか

735.

十三百七第
條五

The *sho-shi*,† or the illegitimate child, of a member of a family cannot enter the family without the consent of the head of the family.

を家に主ひ家
得に非の私族
す入さ同生の
るれ意子庶
こはあは子
さ其る戸及

If a *sho-shi*† cannot enter the father's family, it enters that of the mother.

家き得るの庶
にはさこ家子
入母るさにか
るのさを入父

* *Fuku-seki*, literally "returning to the register." This word which has several meanings is in the code used only in the sense of the return of a person to a family which he, or she, has left. In these cases the name of the person is re-inscribed on the family register from which it was previously expunged.

† See Note on Page 2.

家この私
をさ家生
創きなに子
立は得入か
す一さる母

If an illegitimate child cannot enter the mother's family, it establishes a new family.

十三百七第
條六

736.

は意者家し女
此思かのた戸
限な婚戸る主
に表姻主さか
在示のさき入
らし當爲は夫
すた時る入婚
る反但大姻
さ對當はな
きの事其爲

If the female head of a family contracts a marriage by which her husband enters her family, the latter becomes the head of the family. But cases where at the time of such marriage the parties express a contrary intention do not come under this rule.

十三百七第
條七

737.

なさ但て在戸
得き其其の主
るは者家者の
其族は親
さ他家戸族
なの家爲主に
要戸のるのし
す主家さ同て
の族さ意他
同たなな家
意る得得に

A relative of the head of a family who is in another family may with the latter's consent become a member of his family. But if the relative in question is a member of another family, the consent of the head of that family must be obtained.

さ人若きか前
なのくは未項
要同は親成に
す意母權年揭
な又を者け
得は行なた
る後ふる
こ見父さ者

If the person mentioned in the preceding clause is a minor, the consent of the father or mother who exercises parental rights, or of the guardian, must be obtained.

十三百七第
條八

738.

る親其に組婚
自の配入に姻
已親偶り因又
の族者たりは
親に又るて養
族非は者他子
なさ養か家縁

If a person who has entered another family by marriage, or adoption, wishes to make one of his, or her, own relatives who is not a relative of his, or her, consort or adoptive parents, a member of the

family which he, or she, has entered, in addition to conformity with the provisions of the preceding Article the consent of the consort, or of the adoptive parents, must be obtained.

を者定る族婚
得又にとさ家
るは依き爲又
こ養はさば
さ養前人養
な親外前さ家
要の其様家
す同配の欲の家
意偶祝す家

It is the same in cases where a person who has left a family which he, or she, has entered by marriage, or adoption, wishes to make a lineal descendant, who is a member of the family which he, or she, has left, a member of his, or her, family.

き爲属在り婚
亦さなるた家
同ん自自る又
しと家己者ハ
さ欲のハ養
す家直其家
さ家系家な
ささ卑に去

739.

十三百七第
條九

A person who has entered another family by marriage, or adoption, returns* in the event of divorce, or the dissolution of adoption, to his, or her, original family.

に協離に組婚
復合婚入に姻
籍に又り因又
すはたりは
て離るて養
實縁者他子
家のは家縁

740.

條十四百七第

If a person who must, in accordance with the provisions of the preceding Article, return* to his, or her, original family is unable to do so in consequence of that family having died out, he, or she, establishes a new family. But he, or she, is not precluded from resuscitating the family in question.

再さり籍前
興きてす條
すは復への
る一籍き規
こ家を者定
さな爲に
な創す實依
妨立こ家り
けすこのて
す但能廢實
實は絶家
家さきに
なる因復

741.

十四百七第
條一

If a person who has entered another family by marriage, or adoption, wishes again to enter another

入他因縁は婚
り家り組養姻
たにてに子又

* See Note on Page 5.

意及さ家養る family by marriage, or adoption, he, or she, must
 なひき子者 obtain the consent of the head of the family which
 得實は入縁か the head of the family which he, or she, has entered, and that of the head of his,
 る家婚ら組更 he, or she, has entered, and that of the head of his,
 ここの家んにに婚 or her, original family.
 さ戸又さ因婚
 な主は欲り姻
 要の養すて又
 す同家る他は

こり姻を前 In cases coming under the preceding clause the
 こー又爲項 head of a family who has not given his consent may
 な年はさの within one year from the date of the marriage, or
 得内養さ場
 に子り合
 復縁しに
 籍組戸於 adoption, forbid in advance the return* of the person
 なの主て in question to the family concerned.
 拒日同
 むよ婚意

十四百七第
 條二

742.

りま立離 A member of a family who has been expelled
 てれす籍 from the family establishes a new family. It is the
 其た他せ same in cases where a person who having after entrance
 家の家ら into another family been forbidden to return* to his, or
 な者にた her, original family leaves in consequence of divorce,
 去の入た or the dissolution of adoption, the family which he,
 り離り into another family been forbidden to return* to his, or
 たる又族 her, original family leaves in consequence of divorce,
 婚た族 or the dissolution of adoption, the family which he,
 る又は一 or she, has entered.
 こさ離復家
 き亦縁家
 同になを
 し拒創

十四百七第
 條三

743.

こ他た分さ家 A member of a family may with the consent of
 と親の家き族 the head of his family succeed to the headship of
 な族本なは another family, establish a fresh branch of his
 得の家爲他戸 family, resuscitate the main branch, or a cadet branch,
 但家し家主 or a distant branch of his family which has died out,
 未な家又な
 成再家は相
 年興同廢續意
 者す家絶しあ
 はる其しる

* See Note on Page 5.

or resuscitate the family of a relative which has died out. But a minor must obtain the consent of the father or mother who exercises parental rights over him, or that of his guardian.

こ人く親
さのは權
な同母な
要意又行
すなはふ
得後父
る見若

744.

十四百七第
條四

The legal presumptive* heir to the headship of a family cannot enter another family, nor establish a new family. But cases where succession to the headship of the main branch of the family is necessary do not come under this rule.

に必な一人法
在要得家は定
らあすな他の
する但創家推
さ本立に定
き家す入家
は相るり督
此續こ又相
限のこは續

The provisions of the preceding clause do not preclude the application of the second clause of Article 750.

けの十は前
す適條第項
用第七の
な二百規
妨項五定

745.

十四百七第
條五

If a husband enters another family, or establishes a new family, his wife follows him into the family in question.

入隨き創り夫
るひは立又
て妻しは他
其はた一家
家之る家に
はにさを入

SECTION II.

節二第

THE RIGHTS AND DUTIES OF THE HEAD AND THE MEMBERS OF A FAMILY.

務利の家及戸
義權族ひ主

746.

十四百七第
條六

The head and the members of a family bear the family surname

す氏其家戸
を家族主
稱のは及

* See Note to Article 973.

十四百七第
條七

747.

なのてに其戸
貢義扶對家主
ふ務養し族は

The head of a family is bound to support the members of his, or her, family.

十四百七第
條八

748.

さは得の家
す特た名族
有るにか
財財於自
座産て己

Property acquired by the member of a family in his, or her, own name is regarded as his, or her, special property.

と座分執戸
推は明れ主
定戸なに又
す主ら屬は
のさす家
財るる族
産財かの

Property in regard to which it is not clear whether it belongs to the head of a family, or to one of its members, is presumed to be the property of the head of the family.

十四百七第
條九

749.

こ居意家
さ所に族
なを反は
得定し戸
すむて主
る其の

A member of a family cannot fix his, or her, own place of residence in opposition to the wish of the head of the family.

のは在指に家
義之ら定違族
務にさし反か
を對るたし前
免し問るて項
るては居戸の
扶戸所主規
養主にの定

So long as a member of a family contravenes the provisions of the preceding clause by not living in the place of residence appointed by the head of the family, the latter is relieved from the duty of support.

若ふにめ主前
し僮居其は項
同告所指相の
族すな定當場
かる轉しの合
其こすた期に
僮さへる間於
告なき場をて
に得旨所定戸

In cases coming under the preceding clause the head of the family may fix a suitable time, and call upon such person to move his, or her, residence within that time to the place appointed by him. If the member of the family fails to comply with this demand,

the head of the family may expel him, or her, from the family. But cases where the member of the family is a minor do not come under this rule.

限者其す月應
にな家る主せ
在る族こはざ
らさかこ之る
すき未なをこ
は成得離き
此年但籍は

750.

條十五百七第

For marriage and for adoption a member of a family must obtain the consent of the head of the family.

さ意は組又家
なな戸をは族
要得主爲養か
するのす子婚
こ同に縁姻

If a member of a family marries, or adopts, in contravention of the provisions of the preceding clause, the head of the family may within one year from the date of such marriage, or adoption, expel him or, her, from the family, or forbid his, or her, return to it.

籍り婚爲し家
な一姻して族
拒年又た婚か
む内はる姻前
に養さ又はの
こ離子きは規
さ籍縁は養定
得な組戸子縁
爲の主縁に
し日は組遠
復よ其な反

In cases where a member of a family has adopted, if such member is, in accordance with the provisions of the preceding clause, expelled from the family, the person adopted follows the adoptive parent into his, or her, family.

にはれ規る家
入養た定場族
る親るに合か
にさ従に養
隨きひ於子
ひは離てな
て其籍前爲
其養せ項し
家子らのた

751.

十五百七第
條一

If the head of a family is unable to exercise his, or her, rights, they are exercised by the family council. But cases where there is some person who exercises parental rights over the head of the family, or where there is a guardian, do not come under this rule.

限其し會さ戸
に後て之能主
在見親をはか
ら人権行さ其
すあなふる権
る行但さ利
さふ月きな
き者主は行
は又に親ふ
此は對族こ

節三第

SECTION III.

失裏の權主戸

THE LOSS OF THE RIGHTS OF THE
HEAD OF A FAMILY.

十五百七第
條二

752.

す爲さ具け戸
すれ備た主
こはするば
と隣る條左
な居に件に
得な非の掲

The head of a family cannot abdicate unless the following conditions are fulfilled:—

こな以十滿(二)
ころ上年六(一)

i. The attainment of the age of sixty.

爲單人ろ能(二)
純か家力(一)
承相督を完
こ認續相有全
なの續すの

ii. The unconditional acceptance of succession by the heir to the headship of the family who must have full legal capacity.

十五百七第
條三

753.

な相許に得戸
定續可至さ主
め人をりるが
其あ得た事疾
承らてゐる由病
認さ隣るに
なる居さ因本
得さなはり家
るき爲前ての
こはす條爾相
こ據この後續
なめさ規家又
す家を定政は
相但拘執興
續法はる其他
たのすこ已
る推裁能む
へ定判はこ
き家所さる
者督のるな

If the head of a family is unable, owing to sickness, the necessity of succeeding as heir to the headship of, or resuscitating, the main branch of the family, or other unavoidable causes, to continue the management of the affairs of the family, he may, notwithstanding the provisions of the preceding Article, abdicate with the consent of a Court of law. But if there is no legal presumptive* heir to the headship of the family, he must before doing so determine the person who is to be heir to the headship of the family, and obtain his acceptance of the succession.

* See Note to Article 973.

754.

十五百七第
條四

If the head of a family wishes to enter another family by marriage, he may abdicate in accordance with the provisions of the preceding Article.

こ從はんり戸
さひ前さて主
な隠條欲他か
得居のす家婚
な規るに姻
爲定さ入に
すにきら因

If in cases where the head of a family wishes to enter another family by marriage without abdicating a registrar accepts notice from him to that effect, he shall be regarded as having abdicated on the date of his marriage.

な戸届す姻戸
爲主出るに主
しはな場因か
た婚受合り隠
る姻理に他居
ものし於家な
さの日てに爲
さるに戸入さ
看於さ籍らす
做てさ史んし
す隠はかさて
居其其欲婚

755.

十五百七第
條五

The female head of a family may abdicate irrespective of age.

こ居は年女
さなら齡戸
な爲すに主
得す隠拘は

The female head of a family who is married must obtain her husband's consent to her abdication. But the husband cannot refuse to give his consent unless he has just reasons for doing so.

なる但意な有
拒に夫を爲夫
む非は得すの
こさ正るに女
なはのさ其主
得其理な夫か
す同由装の隠
意あす同居

756.

十五百七第
條六

For the abdication of a person without legal capacity the consent of his, or her, legal representative is not necessary.

さ意代に隠無
なを理は居能
要得人其を力
せるの法爲者
すこ同定すか

十五百七第
條七

757.

すりによひ隠
て屈り其居
其出家は
効つな督隱
力る戸相居
なに籍續者
生因吏人及

Abdication takes effect when notice thereof is given to a registrar by the person abdicating and the heir to the headship of the family.

十五百七第
條八

758.

求る五第居隱
す隱十七居居
る居三百出者
この條五のの
さ取の十日親
な消規二よ族
得な定條り及
裁に又三ひ
判違は今檢
所反第月事
にし七内は
請た百に隱

A relative of a person who has abdicated, or a public prosecutor, may within three months after notice of abdication has been given apply to a Court of law for the annulment of an abdication which contravenes the provisions of Articles 752 or 753.

求にきし條女
す其はて二戸
る取夫隱主
消は居囑か
さな前をの第
な裁項爲規七
得判のし定百
所期たに五
に問る達十
請内さ反五

If the female head of a family has abdicated in contravention of the second clause of Article 755, her husband may within the period named in the preceding clause apply to a Court of law for its annulment.

十五百七第
條九

759.

但隱し隱に隠
追居又居居
認の者り者
取強又て又
爲消追は隱
しなな家居
た裁免督の家
判れ相屈相
さ所た續出續
きにる人か
は請時は爲か
此求より詐
限すり欺る又
在と年なさば
らな内發き強
す得に見は追

If notice of abdication is given in consequence of fraud, or compulsion, by the person abdicating, or by the heir to the headship of the family, the person who has abdicated, or the heir, may within one year from the date of the discovery of the fraud, or of the release from compulsion, apply to a Court of law for the annulment of the abdication. But cases where the act in question has been ratified do not come under this rule.

So long as the person who has abdicated, or the heir to the headship of the family does not discover the fraud, or remains under compulsion, a relative, or a public prosecutor, may apply for the annulment of the abdication. But if after such application has been made the act in question is ratified by the person who has abdicated, or the heir, the right of annulment thereby ceases.

監督又せ隠
權相さば居
は續を檢又者
之人得事は又
にか但し強は
因追其り迫家
り認請隱を督
てな求居免相
消爲ののれ續
滅し後取さ人
すた隠消るか
る居を問詐
さ者請は欺
き父求其な
ははす親發
取来る族見

If ten years have elapsed from the date of notice of abdication, the right of annulment mentioned in the preceding two clauses ceases by prescription.

因さなの權前
りき經日は二
ては過よ隠項
消時しり居の
滅效た十届取
すにる年出消

760.

條十六百七第

A person who before the annulment of an abdication has become a creditor of the heir to the headship of the family may call upon the person who by virtue of the annulment is still head of the family to satisfy his claim. But he is not precluded from demanding payment from the former.

るさ對取の隱
請なし消債居
求得てに權に
な但の因者取
妨家辨りさ消
け督濟て爲前
す相請戸りに
續求主たる家
人なる者督相
對する者は續
すに其人

If the creditor in question knew at the time he acquired his right of action of the existence of a reason for the annulment of the abdication, he can demand payment from the heir only. It is the same with respect to obligations incurred by the heir before succeeding to the headship of the family, and those which are personally and exclusively his own.

專續を家原債
屬爲督因權
すより相の者
る債負さ人す
債務なるに債
にせ得對こ取
付る家しこ得
さ債督てなの
亦務相の知常
同及續みり時
しひ人辨た隱
其の濟る居
一家のさ取消
是督請さ消
に相求はの

十六百七第
條一

761.

移れ債權權隱
者は務人の居
に之者ゝ裏又
對なにより失は
抗以其前は入
すて通戸前夫
る其知主戸婚
こ債なの主姻
こ爲爲債又に
な者す權は因
得及に者家る
すひ非及督戸
債さひ相主

The loss, by abdication, or by marriage into the wife's family of the rights of the head of a family cannot be set up against a creditor or debtor of the former head of a family unless notice of the fact has been given by the latter, or by the heir to the headship of the family, to the creditor or debtor in question.

十六百七第
條二

762.

るて其て新
こ仙家たに
さ家なる家
なに廢者な
得入しは立

A person who has established a new family may abolish it and enter another family.

は裁再さり家
財判與かた督
限所其得る相
にの他す者續
在許正但はに
ら可當本其因
すなの家家り
得事のなて
た由相廢戸
るに續す主
さ因又るさ
きりはこ爲

A person who by succession has become the head of a family cannot abolish it. But cases where permission to do so has been obtained from a Court of law for the purpose of succession to the headship of, or of resuscitating, the main branch of a family, or for any other just reason, do not come under this rule.

十六百七第
條三

763.

其其た他に戸
家家る家廢主
に族さに家ひ
入もさ入し適
る亦はりて法

If the head of a family abolishes it legally, and enters another family, the members of his family also enter that family.

十六百七第
條四

764.

き續家る失戸
こ人督家ひ主
きな相にたな

If there is no heir to the headship of a family which has lost its head, such family is regarded as

having become extinct, and each member of it establishes a new family. Children follow the father; but if the father cannot be ascertained, is in another family, or is dead, they follow the mother and enter her family.

はきさ子家は
母若るは族絶
にくさ父は家
随はきに各し
ひ死随一た
て亡他ひ家る
其し家又なも
家たに父創の
にる在か立さ
入さる知すし
るきされ但其

The provisions of the preceding clause do not preclude the application of Article 745.

を條百定前
防の四は項
け適十第の
す用五七規

CHAPTER III.

章三第

MARRIAGE.

姻婚

SECTION I.

節一第

THE FORMATION OF MARRIAGE.

立成の姻婚

SUB-SECTION I.

款一第

THE MAIN POINTS OF MARRIAGE.

件要の姻婚

765.

十六百七第
條五

Men and women cannot marry unless they have attained the full ages of seventeen and fifteen years respectively.

をなさ五年男
得爲れ年女は
すすはには満
こ婚至満十
さ姻ら十七

十六百七第
條六

766.

さなれる配
な爲て者偶
得す婚は者
すこ姻重あ

A married person cannot contract another marriage.

十六百七第
條七

767.

これしり又女
さはたる六は
な得る今取前
す婚後月消婚
すなになのの
爲非經日解
すき過消

A woman cannot re-marry until six months have elapsed from the date of the dissolution, or annulment, of her previous marriage.

用りて胎は女
せ前はし取い
す項其た消前
の分るの婚
規規婚前の
定の合よ解
な日にり消
適よ於懷又

In cases where a woman was pregnant before the dissolution, or annulment, of her previous marriage, the provisions of the preceding clause cease to apply from the date of the child's birth.

十六百七第
條八

768.

こさる宜離姦
さ婚者告婚通
な姻はを又に
得な相受は因
す爲姦け刑り
す者たのて

A person who has been divorced for adultery, or has received a criminal sentence for this offence, cannot marry her paramour.

十六百七第
條九

769.

は方さ於内直
此のなての系
限傍得は傍血
に系す婚系族
在血但姻血又
ら族養な族は
すさ子爲の三
のさす間親
調養こに等

Marriage cannot take place between lineal blood relatives, or between collateral relatives who are within three degrees of relationship. But this rule does not apply between an adopted person and the relatives of the adoptive parents.

770.

條十七百七第

Marriage cannot take place between relatives by marriage in the direct line. It is the same after the relationship by marriage has ceased in accordance with the provisions of Article 729.

たり十さて直
る姻九なは系
後族條得婚姻
亦關のす姻族
同係規第をの
し定七爲間
止に百すに
ひ依二こ於

771.

十七百七第
條一

Even after the relationship has ceased in accordance with the provisions of Article 730, marriage cannot take place between an adopted person, or his, or her consort, an adopted person's lineal descendant, or the latter's consort, and the adoptive parents, or their lineal ascendants.

婚族百直又養
姻關三系は子
な係十尊其
爲七屬配其
す止條の偶配
こみのの者偶
さた規間さ者
なる定に養
得依て又系
す依はは卑
も親第其屬

772.

十七百七第
條二

For the marriage of a child the consent of the parents in the family must be obtained. But this rule does not apply to men and women who have attained the full ages of thirty and twenty five years respectively.

る満但意其子
後二男な家が
は十得に婚
此五満る在姻
限年三こるな
にに十父爲
在達年を母す
らし女要のに
すたかず同は

If one of the parents cannot be ascertained, or is dead, or has left the family, or is unable to express an intention, the consent of the other parent is sufficient.

のる思なき父
みさな去、母
なき表り死の
は示た亡一方
以はするしたか
足るさるさる
る一方さる知
のこさ又ささ
の能はささる
同は其意家こ
意さ意家こ

の年るる亡父
同者ことし母
意はさきた共
な其能又るに
得後にはさ知
る見さ其きれ
こ人る意さる
さ及さ思家る
なひきをなさ
要親は表去き
す族未示り
會成すた死

If both of the parents cannot be ascertained, or are dead, or have left the family, or are unable to express an intention, a minor must obtain the consent of his, or her, guardian, or of the family council.

十七百七第
條三

773.

爲意子意の繼
すなはせ子父
こ得親さの母
さて族る婚又
な婚會さ姻は
得姻のきに嫡
な同は同母

If the step-parents, or the wife of the father,* do not consent to the marriage of a child,† the latter may marry with the consent of the family council.

十七百七第
條四

774.

要得人に婚禁
せるのは姻治
すこ同其な産
さ意後爲者
なを見すか

A person interdicted from the management of his, or her, property does not require to obtain the guardian's consent to his, or her, marriage.

十七百七第
條五

775.

なてるにな婚
生其に届戸姻
す效因出籍は
力りつ吏之

Marriage takes effect when notice of the fact is given to a registrar.

さ面て二雙前
なな又人方項
要以は以及の
すて署上ひ届
之名よ成出
なをしり年は
爲た口の當
する頭證事
書に人者

The notice mentioned in the preceding clause must be given by both parties, and by two witnesses who are of age, either verbally, or by a document bearing the signatures of all.

* See Article 728.

† The word "child" has here no reference to age. It means a person whose parents are alive.

776.

十七百七第
條六

A registrar cannot accept the notice given until after he has satisfied himself that the marriage does not contravene the provisions of the first clause of Article 741, those of the first clause of Article 744, those of the first clause of Article 750, those of the first clause of Article 754, those of Articles 765-73, inclusive, and those of the second clause of the preceding Article, and other laws and regulations. But if in cases where the marriage contravenes the provisions of the first clause of Article 741, or those of the first clause of Article 750, the parties, in spite of their attention being called to the fact by the registrar, wish to give notice, this rule shall not apply.

たは非三五戸
る第さ條十第
に七れ及條吏
拘百はひ第は
は五其前一婚
ら十届條項姻
す條出第、
當第な一第第
事一受項七七
者、其理の百百
の、す規五四
其規定十十
届定こ其四一
出にこ他條條
な違なの第第
爲反得法一一
さすす令項項、
んる但に
さ場婚違第第
欲合姻反七七
すにっせ百百
る於第さ六四
さて七る十十
き戸百こ五四
は籍四さ條條
此吏十な乃第
限、一認至一
に注條め第項、
在意第た七
らな一る百第
す爲項後七七
し又に十百

777.

十七百七第
條七

If two Japanese who are in a foreign country wish to marry, they may give notice to the Japanese Minister, or to a Japanese Consul, in the country in question. In these cases the provisions of the preceding two Articles shall be applied.

二こ使は婚外
條さ又其姻國
のなは國なに
規得領に爲在
定此事駐さる
な場、に在ん日
準合其すさ本
用に届る欲人
す於出日す間
てな本るに
は爲のさ於
前す公きて

款二第

SUB-SECTION II.

及効無の姻婚
消取ひ

INVALIDITY AND ANNULMENT OF MARRIAGE.

十七百七第
條八

778.

さり合左婚
す無にの姻
数限場は

A marriage is regarded as invalid only in the following cases :—

な姻當の(二)
きな事(一)
さ為者由人
さす間達
意に因其
思婚り他

i. If owing to mistaken identity, or to other reasons, the parties have no intention to marry.

るは件七さ(二)
る之を十さ(一)
るか缺五る當
さ爲く條さ事
なめに第き者
しに止二但か
其ま項其婚
効るに届姻
力さ届出の
なきげか届
妨はた第出
け婚る七な
ら姻條百爲

ii. If the parties do not give notice. But if in the notice given there is merely a defect in the observance of the conditions mentioned in the second clause of Article 775, the validity of the marriage is not impaired thereby.

十七百七第
條九

779.

得消依條婚
すすはるの姻
こ之に規は
さを非定後
を取さに七

A marriage cannot be annulled except in accordance with the provisions of the following seven Articles.

條十八百七第

780.

檢其の至第
事戸婚規第七
よ主姻定七百
はに百六
其親各達七十
取族當反十五
消又事し一條
なば者た條乃

With regard to a marriage which contravenes the provisions of Articles 765-71, inclusive, either of the parties, the head of the family, a relative, or a public prosecutor, may apply to a Court of law for its annul-

ment. But a public prosecutor cannot make this application after the death of one of the parties.

る後方事る裁
こはかこ判
さ之死當さ所
をな亡事なに
得請し者得請
す求たの但求
する一檢す

In the case of a marriage which contravenes the provisions of Articles 766-8, inclusive, the consort of the person concerned, or a previous consort, may apply for its annulment.

請前は違七第
求配當反百七
す偶事し六百
る者者た十六
こもるる八十
こ亦配婚條六
を其偶姻の條
得取者に規乃
消又付定至
なほてに第

781.

十八百七第
條一

*With regard to a marriage which contravenes the provisions of Article 765, if a person of unsuitable age has attained suitable age, application for its annulment cannot be made.

すき適婚規第
るは齡姻定七
其にはに百
さ取達不達六
な消し適反十
得なた齡し五
す請る者た條
求さの

A person of unsuitable age may within three months after attaining suitable age still apply for the annulment of the marriage. But cases where ratification has occurred do not come under this rule.

さたこ婚た不
きるさ姻る適
は後をの後齡
此追得取向者
限認俱消ほは
にを適を三適
在爲齡請个齡
らとに求月に
すた達す間遠
るしる其し

782.

十八百七第
條二

With regard to a marriage which contravenes the provisions of Article 767, if six months have elapsed

る反定條大第
婚しにの十七
姻た違規七百

* This Article must be read with reference to the preceding Article. The meaning is that whereas up to the time of the attainment of suitable age either of the parties, the head of the family, a relative, or a public prosecutor, may apply for the annulment of the marriage, after the attainment of suitable age application for annulment can only be made by the person concerned.

783.

第七百七十二條の規定に違反したる婚姻は同意を爲す權利を有せし者より其取消裁判所に請求することを得同意の詐欺又は強迫に因りたるさき亦同し

784.

前條の取
消権は左
の場合に
於て消滅
す

(二)同意を爲す權利を有せし者が婚姻ありたることを知りたる後又は詐欺を發見し若くは強迫を免れたる後六個月を経過したるべき

i. If six months have elapsed since the person who had the right to give consent to the marriage became aware of it, or since the discovery of the fraud, or the release from compulsion.

(二) 同意
をなす權
を有せし
利者か追
しを爲し
認るべき
たるべき

ii. If the person who had the right to give consent to the marriage ratifies it.

三二 婚姻
届出の日
より二年
を経過し
たるとき

iii. If two years have elapsed since notice of the marriage was given.

785.

第七百八十五條

A person who has married in consequence of fraud, or compulsion, may apply to a Court of law for its annulment. さ所姻に因詐
なにとり欺
得請取るて又
求婚者婚は
すなは婚姻

The right of annulment mentioned in the preceding clause ceases if three months have elapsed since the discovery of the fraud, or the release from compulsion, or if ratification occurs.

786.

第七百八十八條

In cases of *muko-yōshi* * adoption either of the parties may apply to a Court of law for the annulment of the marriage on the ground of the invalidity, or annulment, of the adoption. But there is no objection to the application for annulment of the marriage being joined to the application for the recognition of the invalidity of the adoption, or for its annulment.

The right of annulment mentioned in the preceding clause ceases if three months have elapsed since the parties knew of the invalidity, or annulment, of the adoption, or if the right of annulment has been relinquished.

* *Muko-yōshi* is the term applied to an adopted person who by marriage with a daughter of the head of the adoptive family becomes the son-in-law of his adoptive parents, his adoption having been effected with a view to this marriage. The objection to the rendering of this term by the words "adopted son-in-law," which is the usual translation, is that the adoption precedes, or is coincident with the marriage, and never follows it, as might be inferred from the rendering in question. (See also remarks on adoption in Introduction).

十八百七第
條七

787.

さにな其取婚
す及既効消姻
ほ往力はの

The annulment of a marriage has no retrospec-
tive effect.

すく得事存婚
ころた者す姻
限るかるの
さ度さ婚こ當
要にき姻さ時
す於はにな其
て現因知取
其にりら消
返利てさの
還益財り原
なを産し因
爲受を當の

If a party to a marriage who at the time of such
marriage did not know of the existence of a reason for
annulment has obtained property thereby, the obligation
to return it is limited to the extent of the benefit which
is being actually derived from it at the time of
rendition.

害善還にる婚
賠償す因こ姻
償なるりさの
のりこてな當
貴しと得知時
にさなたり其
任にき要るた取
すはす利る消
之尙益當の
にほの事原
對相全者因
し手部はの
て方を婚存
損か返姻す

A party to a marriage who at the time of such
marriage knew of the existence of a reason for annul-
ment must return the whole of the benefit obtained
thereby. Moreover if the other party acted in good
faith, he, or she, is bound to give compensation for
damage.

節二節

SECTION II.

力効の姻婚

EFFECT OF MARRIAGE.

十八百七第
條八

788.

入のり姻妻
る家てには
に夫因婚

A wife enters by marriage the family of her
husband.

A *niū-fu** and a *muko-yōshi*† enter the wife's family. 入の子ひ入る家は婿夫に妻養及

789.

十八百七第
條九

A wife is bound to live with her husband. ふ務すさ妻なる同は貞義居夫

A husband must cause his wife to live with him. なむなし夫要る爲てはすこし同妻とし居な

790.

條十九百七第

A husband and wife are mutually bound to support one another. なす養互夫貞義なに婦ふ務爲扶は

791.

十九百七第
條一

If a wife is a minor, her husband, if he has attained majority, exercises the duties of guardian. ふのは成な妻職其年る未務後者さ成な見のき年行人夫は者

792.

十九百七第
條二

If a contract is concluded between a husband and wife, it may be cancelled by either party at any time during the marriage. But the rights of a third person must not be injured. さ但よ中た夫な三り何る婦得者之時さ間すのなにきに權取ては於利消も其てなす夫契契約害さ婦約約すこのはなるな一婚爲こ得方姻し

* The term applied to a man who on his marriage enters his wife's family.

† See Note on previous page.

制產財婦夫

第一節

則總

第十九百七
條三

夫婦か婚姻の届出
前に其財産に付き
別段の契約を爲さ
ざりしときは其財
産關係は次款に定
むる所に依る

If married persons before giving notice of their marriage do not make any special contract, with regard to their property, their positions in regard to it are regulated by the next sub-section.

第十九百七
條四

夫婦が法定財産制に異なりたる契約を爲したるときは婚姻の届出までに其登記を爲すに非されは之を以て夫婦の承継人及び第三者に對抗することを得ず

In cases where married persons have made a contract which differs from the system established by law for the regulation of property, it cannot be set up against their successors, or a third person, unless it is registered before notice of their marriage is given.

第十九百七
條五

外國人の夫の本國の法定財産制に異なりたる契約を爲したる場合日本に於ける婚姻の國籍を

In cases where foreigners have made a contract which differs from the system established by law for the regulation of property in the country of the husband, if after marriage they acquire national status

in Japan, or establish their domicile therein, this contract cannot be set up in Japan against their successors, or against a third person, unless it is registered within one year after the acquisition of the national status, or the establishment of the domicile, in question.

者てれ其定取
に夫は契め得
對婦日約たし
抗の本なる又
す承に登さば
る繼於記き日
こ人てすは本
さ及はる一に
なび之に年住
得第を非内所
す三以さにな

796.

十九百七第
條六

The positions of married persons in regard to their property cannot be changed after notice of their marriage has been given.

する之届關夫
こな出係婦
さ變のはの
な更後婚財
得すは姻産

If in cases where one of the married persons manages the property of the other, the property in question is endangered by mis-management, the other person may apply to a Court of law to be entrusted with its management.

裁自く理産夫
判らしのを婦
所其た失管の
に管る當理一
請理さにす方
求なき因る々
す爲はり場他
るさ他其合の
こんの財に一
さこ一産於方
なさ方なての
得なは危管財

In the case of joint property, at the time of making the application mentioned in the preceding clause an application for partition of the property may also be made.

求共は共
すに前有
る其項財
こ分の産
さ割請に
なな求付
得請さて

797.

十九百七第
條七

If, in accordance with the provisions of the preceding Article, or as the result of a contract, the manager of property is changed, or a partition of joint property takes place, such fact cannot be set up against the

るのしり契前
さ分又管約條
き割は理のの
はを共人結規
其爲有か果定
登し財變に又
記た産更依は

な對及夫れな successors of the husband and wife, or against a third
 得抗び婦ば爲 person unless it is registered.
 す第の之す
 る三承なに
 こ者繼以非
 こに人てさ

款二第

SUB-SECTION II.

制産財定法

SYSTEM ESTABLISHED BY LAW NOR THE
REGULATION OF PROPERTY.十九百七第
條八

798.

なる但費生夫
 負と妻用すは
 擔ぎつる婚
 すは戸負一姻
 妻主擔切よ
 之たすのり

The husband bears all the expense connected with a marriage. But if the wife is the head of the family, she bears it.

妨定第十は前
 けの八九第項
 す適章條七の
 用の及百規
 な規ひ九定

The provisions of the preceding clause do not preclude the application of the provisions of Article 790, and those of Chapter VIII.

十九百七第
條九

799.

利収産其は夫
 を益の配用又
 有か使偶方は
 す爲用者に女
 す及の従戸
 權ひ財ひ主

A husband, or the female head of a family, has the right to use and acquire profit from the property of his, or her, consort in accordance with the uses to which it may rightly be applied.

ま利よ財は夫
 を息り産其父
 要か其の配は
 す拂償果偶女
 ふ務實者戸
 この中の主

A husband, or the female head of a family, must pay the interest on the debts of his, or her, consort out of the fruits of the property.

800.

條百八第

The provisions of Articles 595 and 598 extend to the cases mentioned in the preceding Article.

す合定九條第
には十及五
之前八び百
な條條第九
準のの五十
用場規百五

801.

條一百八第

A husband manages the property of his wife.

理な財妻夫
す管産のは

If a husband is unable to manage the property of his wife, she manages it herself.

管妻ざる産夫
理自るこなつ
すらささ管妻
之き能理の
なほはす財

802.

條二百八第

A husband must obtain his wife's consent for contracting debts on her behalf, for assigning her property, giving it as security, or letting it to hire for a period exceeding that named in Article 602. But this rule does not apply to dealing with the fruits of the property for the purposes of the management.

處を貸は財夫
分要な第産か
すす爲六の妻
る但す百譲の
は管に二渡爲
此理は條しめ
限の妻のに
に目の期之借
在的承間を財
らな諾を據な
す以み超保爲
て得ねにし
果るて供
實こ其し妻
なを貸又の

803.

條三百八第

In cases where a husband manages the property of his wife a Court of law may, on the wife's application, if it is considered necessary, cause the husband to furnish suitable security in respect of the management and return of the property.

な及因さ合夫
供ひりきにか
せ返夫は於妻
し還を蔵ての
むにし判必財
る付て所要産
こき其はちか
さ相財妻り管
か當産のさ理
得のの請認す
擔管求むる場
保理にる場

條四百八第

804.

そのは事日
看代妻に常
做理は付の
す人夫て家

With regard to daily household matters, a wife is regarded as her husband's agent.

こ第但否の夫
さ三之認全は
な者なす部前
得に以る又項
す對てこはの
抗善さ一代理
す意な部理
るの得な權

A husband may decline to recognize in whole, or in part, the agent's powers mentioned in the preceding clause. But this non-recognition cannot be set up against a third person who acted in good faith.

條五百八第

805.

さ同自なし夫
な一己爲又々
要ののすは妻
す注た場妻の
意め合々財
爲すにに夫産
するて於を
こさは代理理

In cases where a husband manages his wife's property, or a wife acts as the agent of her husband, the same care must be exercised as when each is acting on his, or her, own behalf.

條六百八第

806.

な代管定第第
準理理は六六
用なし夫百百
す爲又々五五
すは妻十
場妻の五四
合々財條條
に夫産の及
之のを規ひ

The provisions of Articles 654 and 655 extend to cases where a husband manages his wife's property, or a wife acts as her husband's agent.

條七百八第

807.

特得自財姻妻
有た已産前又
財るの及よは
産財名ひり入
産に婚有夫
すは於姻せか
其て中る婦

The property which a wife, or a *niūfu*,* acquires before marriage, or in her, or his, own name during marriage, is regarded as her, or his, special property.

* See Note on page 26.

Property in regard to which it is not clear whether it belongs to the husband, or wife, is presumed to be the property of the husband, or of the female head of the family.

夫の夫らす婦
主たるは属
父たるの
産はるや執
さ女財分れ
推戸産明に

SECTION IV.

節四第

DIVORCE.

婚離

SUB-SECTION I.

款一第

DIVORCE BY ARRANGEMENT.

婚離の上議協

808.

條八百八第

Married persons may effect a divorce by arrangement between themselves.

なる離を其夫
得こ婚以協婦
とすて議は

809.

條九百八第

A person under the full age of twenty five years must, in accordance with the provisions of Articles 772 and 773, obtain for his, or her, divorce by arrangement the consent of the persons who had the right of consent in respect of his, or her, marriage.

意意の七議満
なを規十上二
得爲定二十
るすに條離五
こ權依及婚年
さ利りひなに
なを其第爲達
要す婚七すせ
す婚姻白にさ
るに七はる
者付十第者
のき三七か
同同條百協

條十百八第

810.

用離定七條第
す婚は十及七
は協五ひ百
之議條第七
な上の七十
準の規百四

The provisions of Articles 774 and 775 extend to divorce by arrangement.

條一十百八第

811.

受る違九十戸
理後反條五籍
にせの條更
する非さ規第
こさる定二離
これ其項婚
なほこ他及
得其なのひ第
す届認法第七
出め令八百
なたに百七

A registrar cannot accept notice of a divorce until after he has satisfied himself that it does not contravene the provisions of the second clause of Article 775, and those of Article 809, and other laws and regulations.

け爲さを定戸
め雖受に籍
るにも理違更
こ其離反か
効婚たし前
な力はるて項
しな之さ届の
防かき出規

Even if a registrar accepts notice in contravention of the provisions of the preceding clause, the validity of the divorce is not impaired thereby.

條二十百八第

812.

さ者監協爲協
きを協議し議
は定なをた上
父め爲以るの
にさすて者離
屬りへ子か婚
すしきの其な

If the persons who effect a divorce by arrangement do not determine by that arrangement the person who is to have custody of the children, this custody belongs to the father.

はは場を因父
母子合去りか
にのにりて離
屬監於た婚婚
す設てゐる家

In cases where the father leaves the family owing to divorce the custody of the children belongs to the mother.

こ變の内は前
な更權に監二
を利於議項
し牛義てのの
す務父範規
るに母圖定

The rights and duties of parents beyond the question of custody are not affected by the provisions of the two preceding clauses.

SUB-SECTION II.

款二第

JUDICIAL DIVORCE.

離婚の上判裁

813.

條三十百八第

A married person may bring an action for divorce in the following cases only:—

得すのには夫
る訴限左婦
こなりこの
ご提離婚一
な起婚合方

i. If the consort contracts another marriage.

さ爲重偶(一)
きし婚者(一)
たなを配

ii. If the wife commits adultery.

きたなを(二)
る爲姦(二)
さと通妻

iii. If the husband receives a criminal sentence for an offence against morality.

されに因姦(三)
た處り淫(三)
せて罪夫
さら刑に

iv. If the consort receives a criminal sentence such as is prescribed for offences not less than delicts for an offence connected with forgery, bribery, sexual immorality, theft, robbery, embezzlement of goods deposited, receiving stolen property, or for the offences named in Article 175 and Article 260 of the Criminal Code, or is sentenced for any other offence to major imprisonment for a term of three years or more.

る罪に刑欺(四)
さ因り法取(四)
きり第財配
りて第百偶
て輕七者
重罪十
禁以上條
罰消
綱の第
上の二
三年の
以上百
上處六
のせ十
刑ら條
にれに
處又揭
せはけ
ら其た
れ他若
たの罪
は許

きな重さり(五)
受大る同配
ける虐居配
たる待に偶
る侮又堪者
と辱はへよ

され遺意者(六)
た棄をよ配
るぜ以り配
とらて惡偶

た侮はよの(七)
る辱重り直配
さな大虐系偶
き受な待辱偶
ける又屬者

たなし對已(八)
る又しの配
さ侮はて直系偶
き辱之虐系偶
な待辱者
加重を風か
へ大爲に自

る上生(九)
さ分死配
き明々三偶
なら年考
さ以の

消て姻きに(十)
あ離を又於婚
り婚爲はて婚
た若し養離養
るくた子婚子
さほるかな縁
き縁場家り組
組合女たの場
にさる場
取於婚さ合

條四十百八第

さき行の號前
なは爲一の條
得訴に方場第
すを同か合
提意他に號
起しの於乃
すたて至
るる方夫第
この婦四

v. If such cruel treatment, or grave insult, is received from the consort as to render living together unbearable.

vi. Desertion with evil intention.

vii. If cruel treatment, or gross insult, is received from a lineal ascendant of the consort.

viii. If the consort treats his, or her, own lineal ascendant with cruelty, or gross insult.

ix. If for a period of three years, or more, it is uncertain whether the consort is alive or dead.

x. If, in cases of *muko-yōshi** adoption, a dissolution of adoption takes place, or if, in cases where the adopted person has married a woman of the adoptive family, a dissolution, or an annulment, of adoption takes place.

814.

If, in cases coming under sub-headings i. to iv., inclusive, of the previous Article, one of the two married persons consents to the other's act, an action for divorce cannot be brought.

* See Note on page 25.

It is the same if in cases coming under sub-headings i. to vii., inclusive, one of the two married persons condones the act of the other, or that of the latter's lineal ascendant.

た屬一夫七前
るの方婦就條
さ行又のの第
き爲は一擧一
はを其方合號
亦宥直に乃
同紹系他於至
しし尊のて第

815.

條五十百八第

A person who has received any of the criminal sentences mentioned in sub-heading iv. of Art. 813 cannot bring a petition for divorce on the ground that his, or her, consort has received a criminal sentence.

こしのたけ第
さて事るた八
な離由者る百
得婚あは處十
すのる其利三
訴こ配の條
なを偶宜第
提か者告四
起理にを號
す由同受に
るさ一け掲

816.

條六十百八第

With regard to an action for divorce which is based on any of the grounds mentioned in sub-headings i. to viii., inclusive, of Article 813, the person having the right to bring it cannot do so after one year has elapsed since he, or she, became aware of the fact constituting the reason for divorce. It is the same after ten years have elapsed since the fact occurred.

十起るす因第
年す時るる百
なるよ者離十
經こりつ婦三
過さ一離の條
した年婚訴第
た得をのは一
るす經原之號
後其過因を乃
亦事した提至
同實たる起第
し發る事す八
生後實る號
のけな權の
時之知利事
よりなりを由
り提た有に

817.

條七十百八第

With regard to an action for divorce which is based on the ground mentioned in sub-heading ix. of Article 813, it cannot be brought after the question whether the consort is alive or dead has been set at rest.

すた生婚號第
るる死のの八
こは後訴事百
さば分は由十
を之明配に三
得なを偶因條
す提爲者る第
起りの離九

條八十百八第

818.

爲帶りはの第
すした縁場八
こてる組合百
と離さ取に十
な婚き消於三
得のはのて條
請之請離第
求に求婚十
な附あ又號

If in a case coming under sub-heading x. of Article 813 an application is made for the dissolution, or annulment, of adoption, an application for divorce may be joined to it.

な棄をあ訴第
得し經りは入
する過た當百
るしる事十
と又こ者三
きはとが條
は離を離第
之婚知婚十
を請り又號
提求たはの
起のるの事
す權後緣由
る利三組に
こを个取因
と抛月消る

With regard to an action for divorce which is based on any of the grounds mentioned in sub-heading x. of Article 813, the person concerned cannot bring it if three months have elapsed since he, or she, became aware of the fact of the dissolution, or annulment of adoption, or if the right to apply for a divorce has been relinquished.

條九十百八第

819.

命之益用裁第
すにのす判八
る異爲但上百
こなめ裁の十
こり其判離二
なた監所婚條
得る議はにの
處に子之規
分付のを定
なき利率は

The provisions of Article 812 extend to judicial divorce. But a Court of law may in the interests of the children order the question of their custody to be dealt with in a manner different from that which is laid down in that Article.

CHAPTER IV.

章四第

PARENTS AND CHILDREN.

子親

SECTION I.

節一第

TRUE CHILDREN.

子實

SUB-SECTION I.

款一第

LEGITIMATE CHILDREN.

子出嫡

820.

條十二百八第

A child conceived by a wife during marriage is presumed to be her husband's child.

さはし中妻
推夫たにか
定のる懷婦
す子子胎姻

A child born after two hundred days have elapsed from the date of the formation of a marriage, or within three hundred days after the dissolution, or annulment, of a marriage is presumed to have been conceived during the marriage.

たるり消百婦
るは三者日姻
も婦百く後成
の姻日は又立
さ中内取はの
推にに消婦日
定産生の姻よ
す胎れ日のり
したよ解二

821.

十二百八第
條一

In cases where a woman who has re-married in contravention of the provisions of the first clause of Article 767 gives birth to a child, if the father of the child cannot be determined in accordance with the provisions of the preceding Article, a Court of law shall determine.

き父て定第
はな前女に五
裁定條の違百
判むの分反六
所る規焼し七
之を定して七
なをにに再條
定能依る婦第
むはり場を一
ざ其合爲項
る子にしの
との於た規

十二百八第
條二

822.

得認な夫の第 In cases coming under Article 820 a husband
するは場八
るこ子合百 may decline to recognize the child as his.
こさのに二
さを嫡於十
な否出て條

十二百八第
條三

823.

任裁の依法前 The right of non-recognition mentioned in the
す判法り定條
る所定て代の previous Article is exercised by bringing an action
こは代之理否 against the child, or his, or her, legal representative.
こ特撫を人認
な別人行に權 But if the husband is the child's legal representative,
要代なふ對は a Court of law must appoint a special representative.
す理る但す子
人さ夫る又
なき訴は
選は子に其

十二百八第
條四

824.

なき承出後夫 If a husband recognizes a child after birth as his,
失は認なにか he loses the right of non-recognition.
ふ其しる於子
否たこての
認るさ其出
權さを嫡生

十二百八第
條五

825.

さなり知〇否 An action to establish the fact of non-recognition
を提一り子認 must be brought by a husband within one year after
起年たのの
すす内る出訴 he becomes aware of the child's birth.
るに時生は
こ之よを夫

十二百八第
條六

826.

時に間は者夫 If the husband is a minor, the period mentioned
よ達は前なか in the preceding Article is reckoned from the date
りし其條る未
之た成のさ成
なる半期き年 of his attaining majority. But cases where the

husband becomes aware of the child's birth after attaining his majority do not come under this rule.

在さ生る成起
らきを後年算
すは知ににす
此り子達但
限たのし夫
にる出たつ

If the husband is a person interdicted from the management of his property, the period mentioned in the preceding Article is reckoned from the time when his guardian becomes aware of the child's birth, or from the time when the husband after the annulment of the interdiction becomes aware of the child's birth.

時るの夫
よ後期か
り夫間禁
之つは治
な子禁産
起の治者
算出席なる
す生のさ
な取消さ
知消きは
りあは
たり前
るた條

SUB-SECTION II.

款二第

SHO-SHI AND ILLEGITIMATE CHILDREN.

ひ及子庶
子生私

827.

十二百八第
條七

An illegitimate child may be recognized by the father or mother.

なす之母其私
得るなに父生
こ認於又子
さ知てはは

An illegitimate child which is recognized by the father is regarded as a *sho-shi*.*

さな子る知父
す庶は私し
子之生た認

828.

十二百八第
條八

Even if the father, or mother, is without legal capacity, the consent of his, or her, legal representative is not required for the recognition of an illegitimate child.

さ人さ無す私
なの難能に生
要同も力は子
せ意其者父の
すな注な又認
得定るは知
る代と母な
こ理きつ爲

* See Note on page 2.

私生子の
認知は戸
籍吏に届
出づるに
依りて之
を爲す

認知は遺
言に依り
て爲すこ
を爲すこ
を得

條十三百八第

成年の私生子は其承諾あるに非ざることを認知することを得ず

第一百三十八條一

父は胎内に在る
子と雖も之を認
知するべきを得
此場合於ては
母の承諾を得る
ことを要す

父又は母は死亡したる子と雖も其直系卑屬あるときに限り之を認知することを得此場合於て其直系卑屬の成年者なるときは其承諾を得ることを要す

第一百三十八條二

認知は出生の時
に遡りて其效力
を生ず但第三者
が既に取得した
る權利を害する
ことを得ず

Recognition takes effect retrospectively from the date of birth. But rights already acquired by a third person cannot be injured.

833.

十三百八第
條三

A father, or mother, who has recognized a child cannot annul such recognition.

さ取其又し認
な消認はた知
得す知母るな
すこなは父爲

834.

十三百八第
條四

A child, or any other interested person, may plead facts against recognition.

る實て認害子
こな反知願其
さ主對に係他
か張の對人の
得す事しは利

835.

十三百八第
條五

A child, his, or her, lineal descendant, or the legal representative of either, may demand recognition from the father, or mother.

さ認又法又子
か知は定は
得な母代此其
求に理等直
む對人の系
るしは者卑
こて父の屬

836.

十三百八第
條六

A *sho-shi** acquires through the marriage of the parents who have recognized it the status of a legitimate child.

なて姻父庶
取る嫡に母子
得身出因のは
す分子り婚其

An illegitimate child which is recognized by the parents during their marriage acquires from the time of such recognition the status of a legitimate child.

取子の生認婚
得た時子知姻
するよはし中
身り其た父
分嫡認る母
な出知私か

The provisions of the two preceding clauses extend to cases where the child in question is no longer alive.

な場亡つ規前
準合し既定二
用にたには項
す之る死子の

* See Note on page 2.

節二第

子養

SECTION II.

ADOPTED PERSONS.

款一第

件要の組縁

SUB-SECTION I.

THE MAIN POINTS OF ADOPTION.

十三百八第
條七

837.

み爲はし成
得す養た年
こ子るに
こな者達

A person who has attained majority may adopt.

十三百八第
條八

838.

こま之年尊
なな長屬
得す養者又
すこ子には

A person cannot adopt an ascendant, or one who is senior in age.

十三百八第
條九

839.

此すこ男人法
限爲な子た定
にめ得なるの
在にす養男推
らる但子子定
する女とあ家
場婿爲る督
合とす者相
は爲こは續

A person who has a male child who is the presumptive* heir to the headship of a family cannot adopt a male. But cases where it is done for the purpose of making him the husband of a daughter do not come under this rule.

條十四百八第

840.

さ理了かな後
るのし得養見
間計たす子人
亦算る其こは
同な後任爲被
し終未務す後
はたかこ見
ら管終こ人

A guardian cannot adopt a ward. It is the same after his duties as guardian have ended, so long as the account of management is not closed.

* See Note to Article 973.

The provisions of the preceding clause do not apply to cases which come under Article 848.

適に條百定前
用はの四は項
せ之場十第の
すな合八八規

841.

十四百八第
條一

A married person cannot adopt except in conjunction with his, or her, consort.

す爲さ共は配
すれに其偶
こはす配者
さ縁る偶あ
な組に者あ
得な非さ者

The provisions of the preceding clause do not apply to cases where one of two married persons adopts the child of the other. But the consort's consent must be obtained.

なのにな他夫
以同は養の婦
て意他子一の
足なのさ方一
る得一のの方
る方す子か

842.

十四百八第
條二

If in cases coming under the first clause of the preceding Article one of the married persons is unable to express an intention, the other may adopt in the names of both.

爲方るなて前
すのさ表夫條
こ名き示婦第
さ義はすの一
なを他る一項
得以のこ方の
て一さか場
縁方能其合
組ばば意に
な雙さ思於

843.

十四百八第
條三

If the person to be adopted is under fifteen years of age, the parents in his, or her, family may consent on his, or her, behalf to the adoption.

さ組父さか養
なの母き十子
得承之は五さ
諾に其年なる
なを代家未る
爲りに満へ
すて在なき
こ縁るる者

Step-parents, or the wife of the father, in giving the consent mentioned in the preceding clause must obtain the assent of the family council.

要を親諸母繼
す得族な父
る會爲前母
このす條又
さ同にのほ
な意は承嫡

十四百八第
條四

844.

るる爲以爲成
こ父る上し年
さ母にの又の
なのは子は子
要同其か満か
す意家養十養
なに子五子
得在さ年か

For adoption by a child* who has attained majority,
or the adoption of a child of the age of fifteen years,
or more, the consent of the parents in the family to
which the child belongs must be obtained.

十四百八第
條五

845.

他こ實他入縁
家さ家家り組
になににた又
入要在入るは
るするら者婚
は但父んは姻
此妻母さ更に
限かの欲に因
に夫同す養り
在に意る子て
ら随ひささ他
すひ得きし家
てるはてに

If a person who has entered another family by
adoption, or marriage, wishes again to enter another
family by adoption, the consent of the parents in the
original family must be obtained. But cases where a
wife follows her husband into another family do not
come under this rule.

十四百八第
條六

846.

す合は第條第
に前三第七
之三項二百
な條の項七
準の規及十
用場定ひ二

The provisions of the second and third clauses of
Article 772 extend to cases coming under the three
preceding Articles.

準合二規十第
用に條定三七
す之のは條百
な場前の七

The provisions of Article 773 extend to cases
coming under the two preceding Articles.

十四百八第
條七

847.

用組の百條七
すに規七及百
之定十ひ七
なは五第十
準條條七四

The provisions of Articles 774 and 775 extend to
adoption.

* See Note on page 20.

848.

十四百八第
條八

A person who wishes to adopt may express his, or her, intention by will. In these cases notice of adoption must be given without delay after the will has taken effect by the executor of the will, the person to be adopted, or by the persons who, in accordance with the provisions of Article 843, have consented on his, or her, behalf to the adoption, and by two or more witnesses who have attained majority.

たひ規者養
る成定、表子
後年に養示を
遅の依子爲
滞證りさる
なく二に爲
縁人代へき
組以はき得
の上り者此
の届て又場
出り承は合
な道諸第に
爲言か八於
す言爲百て
す効し四は
こ効た十以
を力た十遺
をなる三言
要生者條執
すし及の行
思

The notice of adoption mentioned in the preceding clause takes effect retrospectively from the date of the adoptive parent's death.

なて時の出前
生其に死は項
す効遡亡其の
力りの親届

849.

十四百八第
條九

A registrar cannot accept notice of adoption until after he has satisfied himself that the adoption does not contravene the provisions of the first clause of Article 741, those of the first clause of Article 744, those of the first clause of Article 750, those of the preceding twelve Articles, and other laws and regulations.

其る條第第戸
届この七一籍
出と規百項吏
なを定五第は
を認其十七縁
理め他條七組
するたの第百
るる法一十四
こ後令項十七
をに達四第
な非違百一
得反前十一
すれせ十二
はさ二項、條

The proviso attached to Article 776 extends to cases coming under the preceding clause.

な場は書十第
準合前の六七
用に項規條百
す之の定但七

條十五百八第

850.

二ににに組外
條於其駐か國
のて居在爲に
規は出するさ
定七なるん
準百爲す日
用七こ本
す十五の欲
十五公する
條得又さ
及此はに
ひ此は於
前場領其
合事國緣

If it is desired to effect adoption between Japanese who are in a foreign country, they may give notice to the Japanese Minister, or to a Japanese Consul, in the country in question. In these cases the provisions of Article 775, and of the two preceding Articles, shall be applied

款二第

SUB-SECTION II.

及効無の組緣
消取ひ

INVALIDITY AND ANNULMENT OF ADOPTION.

十五百八第
條一

851.

さり合左緣
す無にの組
效依場は

Adoption is regarded as invalid only in the following cases :—

き爲問因他(二
さすにりの(一
き意緣當事人
思組事由違
なを者に其

- i. If owing to mistaken identity, or to other reasons, there is between the parties no intention to adopt.

其止第五さ(二
効よ一條る(一
力る項第さ(二
妨さ二き當
けは二項事
は及び其
緣たひ其
組る第出緣
は條入の
こ之件百第
さかを四七屈
な爲缺十百
しめく八七爲
にに條十さ

- ii. If the parties do not give notice of the adoption; but if in the notice given there is merely a defect in the observance of the conditions mentioned in the second clause of Article 774, or in the first clause of Article 846, the validity of the adoption is not impaired thereby.

852.

第十五百八第
條二

Adoption cannot be annulled except in accordance with the provisions of the following seven Articles.

得消れ依條緣
すすはるの組
こ之に規は
さな非定後
を取さに七

853.

第十五百八第
條三

Application to a Court of law for the annulment of an adoption which is not in conformity with the provisions of Article 837 may be made by the adoptive parent, or his, or her, legal representative. But cases where six months have elapsed since the attainment of majority by the adoptive parent, or where ratification has occurred, do not come under this rule.

なたる人た第
爲るこよる八
し後さり縁百
た六を其組三
る个得取は十
さ月但消養七
きな養を親條
は經親裁又の
此過つ判は規
限し成所其定
に又年に法に
在はに請定違
ら追達求代反
す認しす理し

854.

第十五百八第
條四

Application to a Court of law for the annulment of an adoption which is not in conformity with the provisions of Article 838, or those of Article 839, may be made by either of the parties, the head of the family, or a relative.

求り事違八第
す其者反百八
る取其し三百
こ消戸た十三
さな主る九十
き裁又縁條八
得判は組の條
所親は規又
に族各定は
請よ當に第

855.

第十五百八第
條五

Application to a Court of law for the annulment of an adoption which contravenes the provisions of Article 840 may be made by the adopted person, or his, or her, true* relatives. But cases where since

す消方組定第
るななのばに八
と裁親養違百
な判族子反四
得所よ又し十
にりにはた條
管請其其るの
理求取實緣規

* Namely the original relatives of the adopted person, as distinguished from the same person's relatives by adoption.

在る个認たの the closing of the account of management ratification
 らさ月なる計 by the adopted person has occurred, or six months
 すきを爲後算
 は經し養か
 此過又子終
 限しはわは
 にた六通り

は爲しは成追 Ratification has no effect unless it takes place
 其すた能年認
 効にる力には after the adopted person has attained majority, or has
 な非後を達養
 しさ之同し子
 れを復又か recovered legal capacity.

復か計力養 In cases where the account of management is
 し成第算を子
 た年一終同か closed before the adopted person has attained majority,
 るに項は復成
 時達俎りせ年 or has recovered legal capacity, the period mentioned
 よし書たさに in the proviso attached to the first clause of this
 り又のるる達
 之は期間問せす Article is reckoned from the time the adopted person
 な能問合にす
 起力はに管又
 算を養於理は
 す回子ての能 attains majority, or recovers legal capacity.

十五百八第
 條六

856.

追り但其縁第 Application to a Court of law for the annulment
 認た具取組八 of an adoption which contravenes the provisions of
 なる配済は百
 爲後偶か同四 Article 841 may be made by a consort who has not
 し六者葦意十一
 た个判を
 る月縁所爲條 consented to it. But if six months have elapsed
 もな組にさの
 の經あ請さ規 since the consort in question became aware of the
 看過り求しに adoption having taken place, he, or she, will be
 看したる配達
 做たるる偶反 regarded as having ratified it.
 するここ者し
 きをなよた
 は知得りる

857.

第十五百八第
條七

Application to a Court of law for the annulment of an adoption which contravenes the provisions of Articles 844-46, inclusive, may be made by a person who had the right to consent to it. It is the same in cases where consent was the result of fraud, or compulsion.

強す者組十第
迫るよは六八
にこり同條百
固さ其意の四
りを取を規十
た得消爲定四
る同をすに條
さ意裁構違乃
き判利反至
亦詐所なし第
同欺に有た八
し又請せる百
は求し縁四

The provisions of Article 784 extend to cases coming under the preceding clause.

用に條規十第
す之の定四七
な場は條百
準合前の八

858.

第十五百八第
條八

In cases of *muko-yōshi** adoption either of the parties may apply to a Court of law for the annulment of the adoption on the ground of the invalidity, or annulment, of the marriage. But there is no objection to the application for the annulment of the adoption being joined to the application for the recognition of the invalidity of the marriage, or for its annulment.

の又請由事婿
取は求さ者養
消取すしは子
か消るて縁縁
請のこ縁姻組
求請と組のの
す求なの無場
るに得取效合
こ附祖消又に
さ帶婚をは於
なし姻裁取て
妨ての判消は
け縁無所を各
す組効に理當

The right of annulment mentioned in the previous clause ceases if six months have elapsed since the party concerned became aware of the invalidity, or annulment, of the marriage, or if the right of annulment has been relinquished.

る又り其婚前
さはた取姻頃
き其る消のの
は取後お無取
消消六り効消
滅權个たな權
すを月るるは
抛をここ常
棄經とこと事
し過を又者
たし知はか

* See Note on page 25.

第七百八十五條及び
第七百八十七條の規
定は縁組に之を準用
す但第七百八十五條
第二項の期間は之を
六个月とす

第三款

力場の組縁

第八百六十六條

養子に縁組
の日より養
親の嫡出子
たる身分を
取得す

第十六百八第
條一

る家養因縁養
に親り組
入のてには

款四第

緣離

第十六百八第
條二

縁組の富
事者は其
協議を以
て離縁を
爲すを得
か得

The parties to an adoption may dissolve it by arrangement between themselves.

If the adopted person is under fifteen years of age, this dissolution is effected by arrangement between the adoptive parents and the persons who have the right to consent to adoption on behalf of the person adopted.

If after the death of the adoptive parents the adopted person wishes to dissolve the adoption, he may do so with the consent of the head of the family.

爲同なる養
す意を爲後
たなき養つ
と得はん子死
て戸を亡
得之主欲離し
なのす縁な

863.

第十六百八
條三

A person under the full age of twenty-five years must for the dissolution by arrangement of his, or her, adoption obtain the consent of the persons who have, in accordance with the provisions of Article 844, the right to consent to his, or her, adoption.

The provisions of the second and third clauses of Article 772, and those of Article 773, extend to cases coming under the previous clause.

86±.

第十六百八
條四

The provisions of Articles 774 and 775 extend to the dissolution of adoption by arrangement.

十六百八第
條五

865.

受めひ條戸
理た法第籍
する令八二吏
る後に百項は
ふに違六、離
さ非反十第緣
なさせ三八、
得れさ百第
すはるの六七
其み規十百
届と定二七
出か其條十
な認他及五

A registrar cannot accept notice of a dissolution of adoption until after he has satisfied himself that the dissolution is in conformity with the provisions of the second clause of Article 775, with those of Articles 862 and 863, and with other laws and regulations.

け爲さな定戸
らぬ雖受に籍
るにも理違吏
る其離し反か
こ效緣なし前
さ力はるて項
ふな之さ届の
し妨かき出規

Even if a registrar accepts notice in contravention of the provisions of the preceding clause, the validity of the dissolution of adoption is not thereby impaired.

十六百八第
條六

866.

る訴限左者緣
こなりのの組
さ提離場一の
か起緣合方當
得すのには事

One of the parties to an adoption may bring an action for its dissolution in the following cases only :—

ける又方二
た侮はよ一
る辱重り他
さを大虐の
き受ふ符一

i. If cruel treatment, or gross insult, is received from the other party.

さらて悪一
され遺意方二
た棄をよ他
るせ以りの

ii. Desertion by the other party with evil intention.

る辱重り直三
さを大虐系二
き受ふ待尊養
ける又屬親
た侮はよの

iii. If cruel treatment, or gross insult, is received from a lineal ascendant of the adoptive parents.

- iv. If the other party is sentenced to major imprisonment for a term of one year, or more. れ刑一方(四)
たに年か
る處以重他
させ上禁の
さらの綱一
- v. If the adopted person commits a grave fault of a nature to disgrace the family name, or ruin the family property. き失き家名(五)
あ重産を
り大な潰養
たふ傾し子
るるく又に
と巡へは家
- vi. If the adopted person disappears, and does not return for a period of three years, or more. せ年逃(六)
さ以亡
る上し養
と復て子
き歸三つ
- vii. If it is uncertain for a period of three years, or more, whether the adopted person is alive or dead. ら以生(七)
さ上死
る分か養
と明三子
きお年の
- viii. If the other party has cruelly treated, or gravely insulted, his, or her, own lineal ascendant. へ大爲に自(八)
たふし對己
る又しの他
さ侮はて直の
き辱之虐系一
なをに待尊方
加重を屬つ
- ix. If, in cases of *muko-yōshi** adoption, divorce takes place, or if, in cases where the adopted person has married a woman of the adoptive family, divorce, or an annulment of marriage, takes place. 取於婚さ合(九)
消て姻きに
あり離を又於婿
り婚爲はて養
た若し養離子
るくた子縁の
さばるかあ縁
き婚場家り組
姻合女たの
のにさる場

867.

十六百八第
條七

So long as the adopted person is under fifteen years of age a person who has the right to consent to 縁罰せ年滿養
組はさに十子
に其る達五つ

* See Note on page 25.

こ提縁者な付 his, or her, adoption may bring an action for the
 な出のよ有承 dissolution of the adoption.
 得す訴りす諸
 るな難る權

之條の三第
 なつ規條八
 準場定第百
 用合は二四
 すに前項十

The provisions of the second clause of Article 843
 extend to cases coming under the preceding clause.

十六百八第
 條八

868.

な怒は事至第
 提し其者第八
 起た直の六百
 する案一號六
 るさ尊方の十
 るき屬場六
 るさの他台條
 な離行のに第
 得縁爲一於一
 すのな方て號
 訴宥又當乃

If, in cases coming under any of the sub-headings
 i. to vi., inclusive, of Article 866, one of the parties
 has condoned the act of the other party, or that of
 his, or her, lineal ascendant, an action for dissolution
 of adoption cannot be brought.

十六百八第
 條九

869.

起さの者號第
 すき行のの八
 るは爲一場百
 こ離に方合六
 る縁同かに十
 なの意他於六
 得訴しのて條
 すなた一當第
 提る方事四

If, in cases coming under sub-heading iv. of Article
 866, one of the parties consents to the act of the
 other party, an action for dissolution of adoption
 cannot be brought.

提理同れに第
 起由一た掲八
 すこのるけ百
 るし事者た六
 こて由はる十
 るさ離あ他刑六
 な縁るのに條
 得訴のこ一處第
 す訴さ方せ四
 ななにら號

A person who has received the criminal sentence
 mentioned in sub-heading iv. of Article 866 cannot
 bring an action for dissolution of adoption on the
 ground that the other party has received a criminal
 sentence.

條十七百八第

870.

及第號條六第
 ひ五乃第十八
 第號至一六百

An action for dissolution of adoption based on
 any of the grounds mentioned in sub-headings i. to

v., inclusive, and in sub-heading viii. of Article 866, cannot be brought after one year has elapsed since the person having the right to bring it knew of the fact which constituted the reason for dissolution. It is the same after ten years have elapsed since the fact occurred.

年こ年原提入
なを起起號
經な經たすの
過得過る事
しすし事權由
た其た實利に
る事るなを因
後實後知有る
亦發はりす離
同生之たる縁
しのをる者の
時提時が訴
より起り離は
よりす縁之
十る一のな

871.

十七百八第
條一

An action for dissolution of adoption based on the ground mentioned in sub-heading vi. of Article 866 cannot be brought after one year has elapsed since the adoptive parent knew of the return of the adopted person. It is the same after ten years have elapsed since the return of the adopted person.

十す一歸因第
年る年しる八
なをなた離百
經な經る縁六
過な過この十
し得しと訴六
たすたなは條
る其る知養第
後復後り親六
亦歸はたつ號
同の之る養の
し時を時子事
よ提よの由
り起り復に

872.

十七百八第
條二

An action for dissolution of adoption based on the ground mentioned in sub-heading vii. of Article 866 cannot be brought after the question whether the adopted person is alive or dead has been set at rest.

すた生離七第
るる死縁號八
こ後々のの百
さは分訴事六
な之明は由十
得なを養に六
す提爲子因條
起りのる第

873.

十七百八第
條三

If in cases coming under sub-heading ix. of Article 866 an application has been made for divorce, or for

て合號條六第
離にの第十八
縁於場九六百

この附るの又 annulment of marriage, an application for dissolution
 と請帶と請は of adoption may be joined to it.
 な求しき求婚
 得なてはあ姻
 爲離之り取
 す縁にた消

は縁りは因第 An action for dissolution of adoption based on
 之請た婚る八 the ground mentioned in sub-heading ix. of Article
 な求る姻離百
 提の後の縁六
 起權六取の十 866 cannot be brought if six months have elapsed
 す利ヶ消訴六 since the party concerned became aware of the divorce,
 るな月あは條 or the annulment of marriage, or if the right of
 こ抛をり當第 applying for a dissolution of adoption has been
 こ業經た事九 relinquished.
 なし過る者號
 得たしこの
 する又離婚由
 さはを婚事
 き離知又に

十七百八第
 條四

874.

在たすなり養 An adopted person cannot effect a dissolution of
 るる但爲た子 adoption after he, or she, has become the head of the
 す後隠するか family. But after the adopted person has abdicated
 は居こ後月 this rule does not apply.
 此なは主
 限爲な離さ
 にし得縁爲

十七百八第
 條五

875.

るし第し其養 By the dissolution of adoption an adopted person
 た三身實子 recovers the status which he, or she, had in his, or
 ざる者分家は her, original family. But the rights already acquired
 な權かをに離
 得利既回於縁 by a third person cannot be injured.
 すな復てに
 害取す有因
 す得但せり

十七百八第
 條六

876.

しこの養さ夫 In cases where a husband and wife are adopted,
 た婚他子爲婦 or where an adopted person marries another person
 る姻のかりか who has been adopted by the same adoptive parents,
 場を養養又養
 台爲子親は子

if the wife has to leave the family in consequence of the dissolution of adoption, the husband must, at his option, effect either dissolution of adoption, or divorce.

をに選へ因に
要離婚きり於
す婚にとてて
な従き養妻
爲ひは家か
す離夫を離
縁は去縁
と又其るに

CHAPTER V.

章五第

PARENTAL RIGHTS.

權親

SECTION I.

節一第

GENERAL RULES.

則總

877.

十七百八第
條七

A child is subject to the parental rights of the father in the family to which he, or she, belongs. But persons who have attained majority and earn an independent living do not come under this rule.

此立但父子
限つ獨のは
にる立親其
在成の權家
ら年生にに
す者計服在
はをする

If the father cannot be ascertained, is dead, has left the family, or is unable to exercise parental rights, the mother in the family exercises them.

母さ親を死父
之る情去亡か
なとかなりし知
行き行たたれ
ふはふるるさ
家みささるさ
にさきき、
在能又、
るはは家、

878.

十七百八第
條八

In cases where a step-father, a step-mother, or the wife of the child's father, exercises parental rights the provisions of the next Chapter are applied.

定は母親又繼
な次合權は父、
準章にを嫡
用の於行母繼
す規てふつ母

節二第

SECTION II.

力效の權親

EFFECT OF PARENTAL RIGHTS.

十七百八第
條九

879.

義す及年又親
務權ひのは權
を利教子母を
負を育のは行
ふ有な監未ふ
し爲護成父

A father, or mother, who exercises parental rights has the rights and duties of the custody and education of children who are minors.

條十八百八第

880.

適但なし行未
川第定たる成
なセむる父年
妨百る娘又の
け四こ所は子
す十さにもは
九な其親
條要居指權
のす所定な

A child who is a minor must establish his, or her, residence in the place appointed by the father, or mother, who exercises parental rights. But this does not preclude the application of Article 749.

十八百八第
條一

881.

得又は役未
るは親を成
こ母權出年
さのを願の
を許行す子
要可ふるか
すを父に兵

A son who is a minor must obtain the permission of his father, or mother, who exercises parental rights to his making an application for permission to serve in the army or navy.

十八百八第
條二

882.

入をし於は親
る得又て必權
るては自要を
こ之裁らな行
さか判其るふ
な懲所子範父
得戒のを圍又
場許懲内は
に可戒に母

A father, or mother, who exercises parental rights may within necessary limits administer correction to a child, or apply to a Court of law for its confinement in a house of correction.

The period of a child's confinement in a house of correction is determined by a Court of law within a limit of six months. But this period may at any time be reduced on the application of the father, or mother.

す因期は子
るり間て六な
こ何は歳个懲
さ時父判月戒
なを又所以場
得ては之下に
も母をの入
之の定範る
な請む圍る
短求但内期
縮に此に間

883.

十八百八第
條三

A child who is a minor cannot engage in any calling without obtaining the permission of the father, or mother, who exercises parental rights.

むれな又親未
こは得は權成
さ職る母な年
な業にの行の
得な非許ふ子
す宮さ可父は

The father, or mother, may in cases coming under the second clause of Article 6 cancel, or restrict, the permission mentioned in the preceding clause.

みは許に條父
さ之可於第又
ななをて二は
得制取は項母
さ消前のは
すし項場第
る又の合六

884.

十八百八第
條四

The property of a child who is a minor is managed, and the child is represented in legal acts concerning such property by the father, or mother, who exercises parental rights. But in cases where an obligation having for its subject an act on the part of the child will be created the latter's consent must be obtained.

の務す子親
同を但るの權
意生其法財な
なす子律產行
得への行なふ
き行為管父
こ場爲に理又
さ合を付しは
なに目き又母
要於的其其は
すてさ子財未
はすな產成
本る代に年
人債表關の

885.

十八百八第
條五

In cases where a child who is a minor has to manage the property of the consort the father, or

理產者其の未
すな配子成
へ管財偶ひ年

なり母行てき
管て之ふに場
理其に父親合
す財代又權に
産はばな於

mother, who exercises parental rights manages the property on behalf of the child.

十八百八第
條六

886.

意子けの親
なすのた子
得る之るに
るにな行代
は爲はふ
こ親すなり
な族に爲て
要のさし左
すの又に未
同同は成年

For the performance of the following acts, on behalf of a child who is a minor by a mother who exercises parental rights, or for the giving of consent by her to the performance of such acts by the child, the consent of the family council must be obtained:—

さすな營(一)
こ爲業

i. The conduct of a business.

さ爲保財(二)
す證又
こなは借

ii. The borrowing of money, and suretyship.

な的利産は(三)
爲さのに重
すす喪關要
こる失する
さ行なるる
爲目權助又

iii. The performance of an act having for its object the extinction of rights concerning immoveables, or important moveables.

約解産は(四)
な又に重
爲は關要
す仲すな
さ裁るる
こ契和動又

iv. The making of a contract for an amicable arrangement, or an arbitration, concerning immoveables, or important moveables.

さる棄を相(五)
こす抛續

v. The renunciation of succession.

る拒遺與(六)
こ絶贈又
さすなは贈

vi. The rejection of donations or bequests.

887.

十八百八第
條七

Acts performed, or acts for the performance of which consent has been given by a mother who exercises parental rights, in contravention of the provisions of the preceding Article may be cancelled by the child, or by his, or her, legal representative. In these cases the provisions of Article 19 shall be applied.

定此人た違親
な場なる反權
を合於行しな
用にて爲て行
すは之に爲ふ
てを子し母
は取又又か
第消はは前
十す其同條
九ま法意の
條さ定を規
のな代與定
規得理へに

The provisions of the preceding clause do not preclude the application of Articles 121-6, inclusive.

けの百一は前
す適二條第項
用十乃百の
を六至二規
妨條第十定

888.

十八百八第
條八

In the case of acts in regard to which the interests of a father, or mother, who exercises parental rights conflict with those of a child who is a minor, the father, or mother, in question must apply to the family council for the selection of a special representative on behalf of the child.

會人はる未親
にを其行成權
請選子爲年を
求任のの行
する爲付子ふ
るめてさ父
ことには利又
さの特父益は
なを別又相母
要親代は反さ
す族理母す其

If a father, or mother, exercises parental rights over several children, in the case of acts in regard to which the interests of one of the children conflict with those of the others the provisions of the preceding clause shall be applied on behalf of the child in question.

を其益てし父
用方反一親は
すのす人權母
爲るさなを
め行他行數
前爲のふ人
項に子場の
の付さ合子
規てのにに
定は利於對

十八百八第
條九

889.

と管のめは親
な理注に母權
要權意すはな
すななる自行
行以さ己ふ
ふて同の父
こ其一又

A father, or mother, who exercises parental rights must manage the property of a child who is a minor with the same care as when acting on his, or her, own behalf.

限失ふ付得母
になさてては
在かかも爲親
らり得其し族
すしす責た會
と但なるの
き母免行同
はにる爲意
此過るにな

A mother cannot evade responsibility even for acts which she has performed with the consent of the family council. But cases where no fault has occurred on her part do not come under this rule.

條十九百八第

890.

殺費但其な子
し用其管行か
たは子理ひ成
る其のた年
もの養計るに
の財育算父達
さ産及な又し
看のひ爲はた
做收財す母る
す益産ふはさ
さのさ運き
之管を滞は
な理要な親
相のすく權

When a child has attained majority, the father, or mother, who exercises parental rights must without delay furnish an account of management. But the expenses of the child's education, and of the management of the property, shall be regarded as a set-off against the profit derived from the property.

十九百八第
條一

891.

す産表第に前
に示三て條
付し者子但
てたかに書
はる反財の
之さ對産規
なきのを定
適は意典は
用も願ふ無
せ對なる價

If a third person who has made a free gift of property to a child expresses an intention contrary to the proviso attached to the preceding Article, the proviso shall not be applied in regard to such property.

892.

十九百八第
條二

If a third person who has made a free gift of property to a child expresses an intention to the effect that it is not to be managed by the father, or mother, who exercises parental rights, such property shall be regarded as not being subject to the management of the parent in question.

屬其母第無
せ財意な三償
さ産思し者に
るはなてかて
も父表之親子
の又示な權に
さはし管を財
す母た理行産
のるせふを
管とし父典
理きめ又ふ
にはさばる

If in a case coming under the preceding clause the third person in question has not appointed a manager, a Court of law shall on the application of the child, of a relative of the latter, or of a public prosecutor, select a manager.

管檢所せ三前
理事はさ者項
者の子りかの
な請し管場
選求其と理合
任に親き者に
す因族はな於
り又裁指て
其は判定第

The same course shall be followed if the third person does not appoint a fresh manager in cases where although he has appointed a manager the latter's authority has ceased, or it has become necessary to appoint another person in his place.

指て任權し第
定第す限と三
せ三るかき者
さ者必消さか
るか災滅難管
さ更あしも理
きにる又其者
亦管場は管を
同理合之理指
し者にな者定
なを改のせ

The provisions of Articles 27-9, inclusive, extend to cases coming under the two preceding clauses.

準場は九乃第
用合前條至二
すに二の第十
之項規二七
なの定十條

893.

十九百八第
條三

The provisions of Articles 654 and 655 extend to cases where a father, or mother, manages the property of a child, and to cases coming under the preceding Article.

な及財定第第
準ひ産は六六
用前を父百百
す條管又五五
の理は十十
場す母五四
合るの條條
に場子の及
之合の規ひ

十九百八第
條四

794.

きよるに又親
はり債財は權
時五權產親を
數年はの族行
に問其管會ひ
因之管理員た
りを理にさる
て行權付其父
消は消て子若
滅さ滅生とく
するのしのは
と時た問母

If a right of action in respect of the management of property arising between a father, or mother, who has exercised parental rights, or a member of the family council, and a child is not exercised within five years from the date of the cessation of the right of management, it ceases by prescription.

時法いさ問子
よ定成きにの
り代年は管未
之理に前理た
を人達項權成
起かしの年
算就又期消に
す職は問滅達
し後はしせ
た任其たさ
るの子るる

If the right of management ceases while the child is still a minor, the period mentioned in the preceding clause is reckoned from the date on which the child attains majority, or the legal representative who succeeds to the management enters upon his duties.

十九百八第
條五

895.

ふ及は成又親
ひり年は權
親ての母を
權戸子に行
な主に其ふ
行權代未父

A father, or mother, who exercises parental rights exercises on behalf of a child who is a minor both the latter's rights as head of a family, and the latter's parental rights.

節三第

SECTION III.

失喪の權親

LOSS OF PARENTAL RIGHTS.

十九百八第
條六

896.

くは用權母父
不著しなか又
行し又濫親は

If a father, or mother, abuses his, or her, parental rights, or is guilty of flagrant misconduct, a Court of

law may on the application of a relative of the child, or of a public prosecutor, decree the loss of parental rights.

裏に又判決
さ失因は所あ
なり檢はる
得宜其事子さ
告親ののき
す權請親は
るの求族裁

897.

十九百八第
條七

If a child's property is endangered by the mismanagement of a father, or mother, who exercises parental rights, a Court of law may on the application of a relative of the child, or of a public prosecutor, decree the loss of the right of management.

告にはなの親
す因子危失權
るりのく當な
こ其親しに行
さ管族た因ふ
な理又るり父
得權はさて又
の檢き其は
裏事は子母
失の裁のか
な請判財管
宣求所產理

If the order mentioned in the preceding clause has been issued against a father, the right of management is exercised by the mother who is in the family.

なに管た宣父
行在理る告か
ふる權さな前
母はき受項
之家はけの

898.

十九百八第
條八

If the reasons mentioned in the two preceding Articles cease to exist, a Court of law may, on the application of the person concerned, or of a relative of the latter, cancel the order decreeing the loss of the rights in question.

かに又き原前
取因はは因二
消り其裁の條
す失親判止に
こ權族所み定
さののばため
な宣請本るた
得告求人さる

899.

十九百八第
條九

A mother who exercises parental rights may decline the management of property.

こを産ふ親
さ辭の母權
なす管はな
得る理財行

章六第

CHAPTER VI.

見後

GUARDIANSHIP.

節一第

SECTION I.

始開の見後

COMMENCEMENT OF GUARDIANSHIP.

條百九第

900.

すて合左後
開にの見
始於場は

Guardianship commences in the following cases:—

さっけふ對(一)
る管親者し
こ理憎なく未
き權なき親成
を行さ親年
有ふきな者
せ者又行に

i. If there is no one who exercises parental rights over a minor, or if the person exercising parental rights does not possess the right of management of property.

さ宣(二)
き告(二)
あ禁
り治
た産
るの

ii. If a person who has attained majority is interdicted by a judicial order from the management of his, or her, property.

SECTION II.

節二第

THE FUNCTION OF GUARDIANSHIP.

關機の見後

SUB-SECTION I.

款一第

GUARDIANS.

人見後

901.

條一百九第

A person who is the last to exercise parental rights over a minor may appoint a guardian by will. But this rule does not apply to persons who do not possess the right of management.

は管指遺後未
此理定言に成
限權すな印年
になるリ權者
在有てな
らせさ後行對
すさを見ふし
る得人者て
者但なは最

If a mother during the lifetime of the father who exercises parental rights declines beforehand to undertake the management of the property, she may appoint a guardian in accordance with the provisions of the preceding clause.

定にきのに親
を依は管於權
爲り父理てな
すてはな母行
こ後前辭かふ
さ見項し像父
な人のための
得の規る財生
指定と産前

902.

條二百九第

A father, or mother, who exercises parental rights becomes the guardian of a person who is interdicted from the management of his, or her, property.

のは親
後母權
見はな
人禁行
と治ふ
爲産父
る者又

妻が禁治產の宣告
を受けたるときは
夫其後見人となる
夫か後見人たるさ
るときは前項の規
定に依る

If a wife is interdicted by a judicial order from managing her property, her husband becomes her guardian. If the husband cannot be a guardian, the provisions of the preceding clause are followed.

夫が禁治産の宣告を受けたるときは妻が後見人となるべき又は夫が未成年者なるときは第一項の規定に依る

If a husband is interdicted by a judicial order from managing his property, his wife becomes his guardian. If the wife cannot be a guardian, or if the husband is still a minor, the provisions of the first clause of this Article are followed.

條三百九第

903.

前二條の規定に依りて家族の後見人たる者あらざるときは戸主其後見人と爲る

If there is nobody who can, in accordance with the provisions of the two preceding Articles, become the guardian of a member of a family, the head of the family becomes the guardian.

第四百九條

904.

前三條の規定に依りて後見人たる者あらざることは後見人は親族會之を選任す

If there is nobody who can, in accordance with the provisions of the three preceding Articles, become guardian, a guardian is selected by the family council.

第五百九條

905.

母の財産の管理を、父が其任務を後見人として行ひたるに依り又は母の家主

If it becomes necessary to appoint a guardian in consequence of a mother declining the management of the property, of a guardian declining to act, of a father, or mother, who exercises parental rights leaving

the family, or in consequence of the abdication of the head of the family, the father, mother, or guardian in question must without delay apply to a Court of law for the summoning of a family council.

請集見た見か
求し人る人隠
す又はさな居
る其滞は日選
こと招なくを
な集交すた
要を親、必る
す裁族母要に
判會又は因
所なは生り
に招後し

906.

條六百九第

One person only can be guardian.

すさは後
なる一見
要こ人人

907.

條七百九第

A guardian, if not a woman, cannot decline to act except on the following grounds:—

ななさ事を後
得辭れ由除見
すすはあく人
る其の外は
こ任に左婦
さ務非の女

- i. Actual service as a *gun-jin** or *gun-zoku*.†
るにて人二
こ服甲さ
さす役し事
- ii. Engagement in public business outside of the town, or rural district, in which the ward's domicile is situated.
る務外市人二
こにに父の二
さ從於は住被
事て部所後
す公以の見
- iii. If, in cases where any of the grounds mentioned in this or the next Article existed
者る見先已二
にへ人によ二
付きた後り自

* The term *gun-jin* includes in the army all combatant and non-combatant officers, non-commissioned officer, and privates; and in the navy all combatant and non-combatant officers, petty officers, and seamen.

† The term *gun-zoku* includes all civil officials and other persons employed in the army or navy who have either taken the oath of allegiance, or have signified their submission to the rules regulating their employment by the formality known as *Toku-hō* ("the reading of the law").

る事場事條き
こ由台由に本
さ消のの掲條
減に存け又
してせたは
に具しる次

ひさ年(四)
戸但以禁
主配上治
は偶後
此者見産
限、な者
に直為に
在系し付
ら血たて
す族るは
及こト

由の正此(五)
事當他

條八百九第

得こ人はく左
すこた後るに
なる見者掲

者年成未(一)

治者(二)
産及禁
者ひ台
準自
禁産

止明(三)
公者三
權及刺
者ひ事
停公

又法せに(四)
は定ら於裁
你代れて免
佐理た判所
人入る黜

者産破(五)

in regard to a person who ought to be guardian before him, such ground, or grounds, have ceased to exist.

iv. Having acted for ten years, or more, as the guardian of a person interdicted from the management of his, or her, property. But this rule does not apply to a consort, a lineal blood relative, or the head of a family.

v. Other just grounds.

908.

The following persons cannot be guardians:—

- i. A minor.
- ii. A person interdicted, or one who is treated as a person interdicted, from the management of his, or her, property.
- iii. A person who has been deprived of his, or her, public rights, or a person whose public rights have been suspended.
- iv. A legal representative, or curator, who has been dismissed from his, or her, post by a Court of law.
- v. A bankrupt.

vi. A person who is instituting, or has instituted, a civil action against the ward, or such person's consort, or lineal blood relative.

並者し對(六)
に及又し被
直ひはて後
系其爲訟
血配し訴見
族偶たな人
者る爲に

vii. A person who has gone away and cannot be traced.

るれの行(七)
者さ知方

viii. A person whose unfitness for the duties of guardian, or improper conduct, or flagrant misconduct, has been established by a Court of law.

り著不堪て(八)
さし正へ後
認きのさ見裁
め不行るの判
た行爲事任所
跡又跡務に
者あはに於

909.

條九百九第

The preceding seven Articles extend to curators.

すな人はの前
準に保規七
用之佐定條

If the interests of a curator or of the person acting for him, conflict with those of the person interdicted from the management of his, or her, property, the curator must apply to the family council for the appointment of a provisional curator.

すのは益者保
る選保相さ佐
こ任佐反準人
さな人す禁又
な親はる治は
要族臨行産其
す會時爲者代
に保にさ表
請佐付のす
求人て利る

款二第

SUB-SECTION II.

人督監見後

SUPERINTENDENTS OF GUARDIANSHIP.

條十百九第

910.

こ人以るす後
さなて者る見
な指後こ人
得定見違さな
す監言な指
る督を得定

A person who is able to appoint a guardian may by will appoint a superintendent of guardianship.

條一十百九第

911.

族こ判は人前
會と所其な條
はなに事きの規
其要請務さき定
後す求にに依
見若し著はに
人し後手法依
な之見す定り
如に監る後て
難違督前見指
す反人親人定
るしを族又し
こた選會はた
なを任の指る
をさせ招定後
得ばむな見監
親る裁人督

If a superintendent of guardianship is not appointed in accordance with the provisions of the preceding Article, the legal guardian, or the appointed guardian, must before proceeding to conduct the business of the guardianship apply to a Court of law for the summoning of a family council, and cause a superintendent of guardianship to be selected. If this course is not followed, the family council may dismiss the guardian.

る督直し後親
こ人ちた見族
さをにる人會
な選後さな
要任見き選於
すす監は任て

If a family council selects a guardian, it must at once select a superintendent of guardianship.

條二十百九第

912.

滞後た督の後
な見る人後見
く人さの後人
親はき缺見就
族選はけ監職

Should the post of superintendent of guardianship become vacant after the guardian has entered upon his duties, the latter must without delay summon

the family council, and cause a superintendent of guardianship to be selected. In these cases the provisions of the first clause of the preceding Article shall be applied.

規はすし監會
定前此む督を
な條據る人招
準第合こな集
用一にさ選し
す項於な任後
のて要せ見

913.

條三十百九第

If a guardian is changed, the family council must make a fresh selection of a superintendent of guardianship. But the previous superintendent may be re-selected.

さ監こ見る後
な督さ監さ見
妨人な督さ人
けな要人はの
す再すな親更
選但改族迭
す前選會あ
る後すはり
こ見る後た

If the new guardian is not a person selected by the family council, the superintendent of guardianship must at once summon the council and cause the fresh selection of a superintendent to be made in accordance with the provisions of the preceding clause. If he fails to take this course, he incurs joint responsibility with the guardian for the latter's acts.

爲しりな者新
に之てくに後
付に改親非見
き遠選族さ人
之反な會るか
なし爲なさ親
連たさ招さ族
帶るし集は會
しさむし後に
てさる前見於
其はこ項監選
責後さの督選
に見な規人任
任人要定はし
すのすに選た
行者依附る

914.

條四十百九第

The consort, lineal blood relative, brother, or sister of a guardian cannot become the superintendent of the latter's guardianship.

すたは又者後
る後は、見
こ見兄直人
さ監弟系の
な督傍血配
得人妹族偶

915.

條五十百九第

The duties of a superintendent of guardianship are as follows:—

の職督後
如務人見
し左の監

（一）見事監督
（二）人事監督
（三）事務監督
（四）監察監督

i. To superintend the business of the guardianship.

（一）親族會議
（二）親族會議
（三）親族會議
（四）親族會議
（五）親族會議
（六）親族會議
（七）親族會議
（八）親族會議
（九）親族會議
（十）親族會議
（十一）親族會議
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（十八）親族會議
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（九十七）親族會議
（九十八）親族會議
（九十九）親族會議
（一百）親族會議

ii. In cases where a vacancy occurs in the post of guardian to expedite the succeeding guardian's entrance upon his duties, and, if there is no succeeding guardian, to summon the family council, and cause it to appoint a successor to the post.

（一）合議
（二）合議
（三）合議
（四）合議
（五）合議
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（九十九）合議
（一百）合議

iii. To take the necessary steps in cases of urgency.

（一）代表
（二）代表
（三）代表
（四）代表
（五）代表
（六）代表
（七）代表
（八）代表
（九）代表
（十）代表
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（九十九）代表
（一百）代表

iv. To represent the ward in the case of acts in regard to which the interests of the guardian, or those of the person who represents him, conflict with those of the ward.

第九百六十六條

916.

（一）第八條
（二）第六條
（三）第六條
（四）第六條
（五）第六條
（六）第六條
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（九十八）第六條
（九十九）第六條
（一百）第六條

The provisions of Articles 644, 907 and 908 extend to superintendents of guardianship.

SECTION III.

節三第

THE BUSINESS OF GUARDIANSHIP.

後見の事務

917.

第九百七十七條

A guardian must without delay proceed to make an examination of the ward's property, and must within one month finish such examination, and prepare a list. But this period may be extended by the family council.

此後此の内の後見人に見るべき財産の調査を速に終るべきである。但し、この期間は家族會議により延長せらるるを得。其の調査は、後見人の財産の調査を速に終るべきである。但し、この期間は家族會議により延長せらるるを得。

The examination of the property and the preparation of the list have no validity unless they take place in the presence of the superintendent of guardianship.

其の財産の調査及びリストの作成は、監督官の在場なくしては効力を有しない。

If the guardian does not prepare the list in accordance with the provisions of the two preceding clauses, the family council may dismiss him from his post.

後見人は、前二條の規定に従ってリストを作成しないときは、家族會議によりその職を解任せらるるを得。

918.

第九百八十八條

Until the preparation of the list is finished a guardian has authority to perform only such acts as are urgently necessary. But this limitation of authority cannot be set up against a third person who has acted in good faith.

後見人は、リストの作成が完了するまでは、緊急を要する行為のみを行ふことができる。但し、この制限は、善意で行為した第三者に対しては主張することができない。

條九十百九第

919.

こ後査なし後
さ見に質債見
な監督ふ極人
要督さなをい
す人すき有被
にるはし後
申前財又見
出に産ば人
つ之の債に
るな調勝對

If a guardian has a right of action against or is indebted to the ward, he must before proceeding to examine the ward's property inform the superintendent of guardianship of the fact.

權さり有人後
なるてすに見
失と之る對人
ふきをこしか
は申さ債被
其出な權後
債て知な見

If a guardian knowing that he has a right of action against the ward does not report the fact, he loses his right of action.

こ其さを對後
さ後る知し見
な見さり債人
得人きて務か
なは之な被
免親な質後
黜族申ふ見
す會出こ人
るはてさに

If a guardian knowing that he is indebted to the ward does not report the fact, the family council may dismiss him from his post.

條十二百九第

920.

用る財被後前
す場産後見三
合な見人條
に取人就の
之得か職規
なし包の定
準た括後は

The provisions of the preceding three Articles extend to cases where the ward has acquired property by universal succession after the appointment of the guardian.

十二百九第
條一

921.

纏め第第第未
なた八八八成
行る百百百年
ふ事八八七者
父項十十の
又に五三九後
は付條條條見
母きに及乃人
さ親定ひ至は

The guardian of a minor has the same rights and duties in regard to the points mentioned in Articles 879-883, inclusive, and in Article 885, as a father, or mother, who exercises parental rights. But he must obtain the consent of the family council for changing

the method of education or the residence fixed by the father, or mother, who exercised parental rights, for placing the minor in a house of correction, for giving permission to the minor to engage in business, or for cancelling, or restricting, such permission.

族を及ぶ同
會取にひ父
の消入居又
のしれ所は
意又、な母
なは禁煙の
得之業更定
るなをしめ
こ制許した
さ限可未る
なすし成教
をる、者育
すに、其の
は許懲方な
親可戒法行

922.

第二百九十二條

The guardian of a person interdicted from the management of his, or her, property must give attention to the medical treatment and nursing of such person in accordance with the latter's means.

る療資人禁
こ養力は治
さ君に禁産
か護應治者
要なし産の
す力て者後
む其の見

The guardian determines with the consent of the family council the question of placing a person interdicted from the management of his, or her, property in a lunatic asylum, or placing him, or her, under restraint in a private house.

人會置に禁
之のす入治
な同るれ産
定意さ又者
むを否はな
得さ私慮
ては宅顧
後親に病
見族監院

923.

第二百九十三條

A guardian manages the property of the ward, and represents the latter in the case of legal acts concerning it.

代付すし人後
表さる又の見
す被法其財人
後律財産は
見行産な被
人爲に管後
なに調理見

The proviso attached to Article 884 extends to cases coming under the preceding clause.

な場は書十第
準合前の四八
用に項規條百
す之の定但八

十二百九第
條四

924.

な の療後て後
豫爲養見親見
定め看人族人
す毎護の會は
る年及生の其
こ費び活同就
さす財意職
なへ産教なの
要きの育得初
す金管又てに
額理は被於

A guardian must at the outset of his appointment fix beforehand, with the consent of the family council, the amount to be expended each year for the subsistence, education, medical treatment, and nursing of the ward, and for the management of the latter's property.

な 於已を同前
支てむ變更項
出豫こ更なの
か定さする得豫
る額なるる定
こな得こに額
さ超さこ非は
なゆるなる親
妨る場得れ族
け金合すは會
す額に但之の

The fixed amount mentioned in the preceding clause cannot be altered without the consent of the family council. But in cases where it is unavoidable a sum in excess of this amount may be expended.

十二百九第
條五

925.

さ のふ産力親
き配る中其族
に偶こよ他會
此者さりのは
限い相事後
に直得當情見
在系但のに人
ら血後報依及
す族見酬りひ
又人を被被
ば後後後
戸被見見見
主後人人人
な見にのの
る人與財資

The family council may in accordance with the means of the guardian and of the ward, and in accordance with other circumstances, grant suitable remuneration to the guardian out of the ward's property. But cases where the guardian is the ward's consort, or lineal blood relative, or is the head of the family, do not come under this rule.

十二百九第
條六

926.

け百す産同後
す六る財意見
條こ管を人
のと理得は
適な者て親
用得な有族
な但使給會
妨第用のの

A guardian may with the consent of the family council employ a salaried manager for the property. But this does not preclude the application of Article 106.

927.

十二百九第
條七

The family council must at the outset of the appointment of the guardian fix what amount the money received by the latter on behalf of the ward shall reach before he is required to deposit it.

なせる見初親
定は金人に族
む之錢の於會
るなつては
こ寄何め後後
こ託程に見見
なすの受人人
要へに額取か就
すきにり被職
か達た後の

If a guardian, in spite of the fact that the money received by him on behalf of the ward has reached the amount fixed by the family council, does not deposit it within a reasonable period, he must pay interest at the rate fixed by law.

息託も會に後
なせ相の受見
拂さ當定取人
ふるのめりか
こさ期たた被
こき間るる後
なはに額か見
要す其にに錢人
す法之達かの
定をす親爲
利寄る族ぬ

The place where the money is to be deposited is determined by the guardian with the consent of the family council.

定後同はす金
む見意親へ錢
人か族きな
之得會場寄
なての所託

928.

十二百九第
條八

An appointed, or selected, guardian must at least once a year make a report to the family council on the condition of the ward's property.

こ親人く定指
さ族のさ後定
な會財も見後
要に産一人見
す四の回は人
告狀被毎及
す況後年ひ
るを見少選

929.

十二百九第
條九

A guardian must obtain the sanction of the family council to his conducting business, or performing any of the acts specified in the first clause of Article 12, on behalf of the ward, or to his giving consent to the conduct of business, or the performance of

すはけ第代後
こ未た十は見
こ成る二り人
に年行條か被
同者爲第後
意のな一業後
す之爲頃若見
るなしにく人
に爲又掲はに

すはのな意は such acts by a minor. But this rule does not apply
 此領要を親 to the receipt of capital.
 限收す得族
 にに阻る會
 在付元この
 らて本と同

條十三百九第

930.

條を被のは後 If a guardian acquires by transfer the property of
 の得後權被見 the ward, or the rights of a third person against the
 規此見利後人 latter, the ward may cancel the transaction. In these
 定場人を見か cases the provisions of Article 19 shall be applied.
 な合は讓入被
 率に之受に後
 用於なけ對見
 すて取たす人
 は消るるの
 第すき第三財
 十こき三產
 九こは者父

けの百一は前 The provisions of the preceding clause do not pre-
 す適二條第項 clude the application of Articles 121-6, inclusive.
 用十乃百の
 な六至二規
 則條第十定

十三百九第
 條一

931.

こ産被る會後 A guardian cannot without the consent of the family
 さな後にの見 council hire the ward's property.
 な貸見非同人
 得借入さ意は
 すすのれを親
 る財は得族

十三百九第
 條二

932.

る人人時す後 If a guardian neglects his duties altogether, the
 ここの管る見 family council may select a provisional manager, and
 な財責理さ人 cause him to manage the ward's property on the guardian's
 な産任人きか responsibility.
 得なをなは其
 管以選親任
 理て任族務
 せ被し會を
 し後後は曠
 む見見臨く

十三百九第
 條三

933.

見後は會族親 The family council may cause the guardian to furnish

suitable security for the management and return of the ward's property.

む擔に管見入
る保付理人な
こなき及のし
さ供相ひ財て
なせ當返産被
得しの還の後

934.

十三百九第
條四

If the ward is the head of a family, the guardian exercises on his, or her, behalf the ward's rights as such. But he must obtain the sanction of the family council for removing the name of a member of the family from the family register, for forbidding his, or her, return to the family register, or for consenting to the establishment by him of a fresh branch of the family, or to his resuscitation of a family which has died out.

すすししに被
る若、代後
にく其は見
はは復り人
親廢籍てか
族絶な其戸
會家拒權主
のなみ利な
同再又なる
意興は行さ
かず家ふき
得る族但は
るこか家後
こと分族見
さに家を人
を同を離は
要意爲籍之

A guardian exercises parental rights for a minor. But the provisions of Articles 917-21, inclusive, and those of the preceding ten Articles shall be applied.

規一條行に後
定條乃ふ代見
な及至但は人
準ひ第第りは
用前九九て未
す十百百親成
條二十權年
の十七を者

935.

十三百九第
條五

In cases where the person exercising parental rights does not possess the right of management the guardian has authority only in regard to the property.

な嗣後る管親
有す見揚理繼
する人合權を
權はにを行
限財於有ふ
の産てせ者
みにはさか

936.

十三百九第
條六

The provisions of Article 644, those of Article

四十四百六第

に條ひ十七條 887, those of the second clause of Article 889, and
 之の第九條 those of Article 892, extend to guardianship.
 な規八條 第
 準定百第第八
 用は九二八百
 す後十項百八
 見二及八十

節四第

SECTION IV.

了終の見後

TERMINATION OF GUARDIANSHIP.

十三百九第
條七

937.

之但の續る後
 な此計人さ見
 伸期算はき人
 長間を二はの
 すは爲箇後任
 親す月見務
 こ族こ内人か
 さ會さに又終
 なにな其は了
 得於要管其し
 てす理相た

When the duties of a guardian have ended, he, or his successors, must within two months prepare an account of management. But this period may be extended by the family council.

十三百九第
條八

938.

すて立監算後
 之會督は見
 なな人後の
 爲以の見計

The guardian's account is prepared in the presence of the superintendent of guardianship.

すなはてり後
 得親はて見
 る族後る人
 こ會見場の
 その合更
 な認計に送
 要可算於あ

In cases where a change of guardians has occurred the guardian's account must be approved by the family council.

十三百九第
條九

939.

さ了のた成未
 後前計る年成
 見に算後に年
 人其の後達者
 又者終見しか

A minor after attaining majority may cancel a contract made by him, or her, before the closing of the account of guardianship with the guardian, or

with the latter's successor. The same rule applies to unilateral acts performed by the minor *vis-à-vis* the guardian or the latter's successors.

獨人其之しは
行に者之たる其
爲對かたる相
亦し後取契續
同て見消約人
し爲人すはと
し又こ其の
たはさ者間
る相をにに
單續得於爲

The provisions of Article 19, and those of Articles 121-6, inclusive, extend to cases coming under the previous clause.

之前六乃第第
な項條至百十
準のの第二九
用協規百十條
す合定二一及
には十條ひ

940.

條十四百九第

From the date of the closing of the account of guardianship interest must be paid on money which is to be repaid by the guardian to the ward, or by the ward to the guardian.

附算へ見還後
す終き人す見
る了金かへ人
この額後きか
の時に見金被
さより人領後
要り後に及見
す利見返ひ人
息の還被に
を計す後返

If a guardian spends on his own behalf money which belongs to the ward, he must pay interest on it from the date on which it was spent. Moreover if loss has been incurred, he is bound to give compensation.

き要之る後後
はすにさ見見
其尙利き人々
賠償は息はの
の害附消錢己
の費す費な
貴ありるの消爲
任たこ時費め
するさよしに
さなりた被

941.

十四百九第
條一

The provisions of Articles 654 and 655 extend to guardianship.

準後條六四第
用見の百條六
すに規五及百
之定十ひ五
なは五第十

十四百九第
條二

942.

價後被監た第
權見後督る八
にに見人時百
之關人又教九
なしとはは十
準ての親後四
用生間族見條
すしに會人に
た於員後定
るてと見め

The prescription established by Article 894 extends to claims concerning the guardianship which arise between a guardian, a superintendent of guardianship, or the family council, and a ward.

時になに百前
よ於取依三項
りて消り十の
起はして九時
算其た法條教
す取る律のは
消場行規第
の合爲定九

The prescription mentioned in the preceding clause shall in cases where a legal act has been cancelled in accordance with the provisions of Article 939 be reckoned from the date of such cancellation.

十四百九第
條三

943.

之治親定前
な産族は條
準者會保第
用さ員佐一
すのと人頂
間準又の
に禁は規

The provisions of the first clause of the preceding Article apply as between a curator, or a member of a family council, and a person treated as one who is interdicted from the management of his property.

章七第

CHAPTER VII.

會族親

FAMILY COUNCILS.

十四百九第
條四

944.

本な場族の本
人妻合會規法
すにを定其
戸る於開に他
主事てく依の
件會へり法
親の議き親令

In cases where a meeting of a family council must be held in accordance with the provisions of this Code, or those of other laws or regulations, the council is summoned by a Court of law on the

application of the person chiefly concerned in the case which calls for deliberation, or the head of the family, or a relative, or the guardian, or the superintendent of guardianship, or the curator, or a public prosecutor, or an interested party.

す因利人族
り害保佐見
裁關係人、
判係人、後
所人の檢見
之の請事監
な請求又督
招求には督
集に

945.

十四百九第
條五

The family council consists of three or more persons, and is chosen by a Court of law from among the relatives and the person chiefly concerned, or some person connected with the latter's family.

な中に他以親
撰に總本上族
定り故人さ會
す裁あ又し員
判るは親は
所者其族三
之の家其人

A person who is able to appoint a guardian may by will choose the members of the family council.

さな以るす後
な選て者る見
得定親はこ人
す族違はさな
る會言な指
こ員な得定

946.

十四百九第
條六

A person living in a distant place may decline to be a member of a family council.

なを親のす遠
得な族事る隔
辭會由者の
す員あ其地
るたる他に
こる者正居
まこは當住

A guardian, a superintendent of guardianship, or a curator, cannot be a member of a family council.

する親ひ見後
こ族保監見
さ會佐督人、
な員人、人、
得たは及後

The provisions of Article 908 extend to members of a family council.

理員は條第
用に親の九
す之族規百
な會定八

十四百九第
條七

947.

之數員議親
ななの事族
決以過は會
すて半會の

Matters which form the subject of deliberation by a family council are decided by a majority.

こ數付すの會
にきる利員
な加表議者
得は決事に
するのに關

A member of a family council cannot vote in a matter under discussion in which his own interests are concerned.

十四百九第
條八

948.

るは見偶本
こ親人者、
族、本、月
會、後、主
な見、家
得に、位、
於監督に
て其分家
意及在
見ひ父
な保母
述佐主
ふ人後配

The person chiefly concerned, the head of his, or her, family, the father, or mother, in the family of which the person in question is a member, his, or her, consort, the head of the main, or of a cadet, branch of the family, the guardian, superintendent of guardianship, or the curator of the person in question, may state his, or her, opinion before the family council.

要すに掲集親
する之けは族
なな前會
さ通る項の
な知者に招

Notice of the summoning of a family council must be given to the persons mentioned in the preceding clause.

十四百九第
條九

949.

な後合續會無
招見なすは能
集除此力者
す督其親者
人、外族の
人、本會の
保人、は爲
佐、其能め
人、法初に
又法定招設
は定むる
員、理集の
之、人、場
之、人、繼
族

A family council established on behalf of a person without legal capacity continues until the legal incapacity ceases. Such council, except when it is first summoned, is convened by the person chiefly concerned, his, or her, legal representative, the superintendent of guardianship, the curator, or by a member of the council.

950.

第十五百九第

If a vacancy occurs in a family council, the members of the council must apply to a Court of law to choose a member to fill the vacancy.

こ判飲さ欽親
さ所自き自族
なにはな會
要請機生員
す求定員しに
すなはた於
る裁補るて

951.

第十五百九第
條一

A member of a family council, or any of the persons mentioned in Article 940, may appeal to a Court of law against a decision of the council.

る不に又て親
こ服扱はは族
こなけ第一會
を裁た九令の
得判る百月決
所者四内議
によ十にに
訴り四會對
ふ其條員し

952.

第十五百九第
條二

If a family council is unable to arrive at a decision, the members of the council may apply to a Court of law for a judgment to take the place of the decision of the council.

るさる會こ親
こなへ員さ族
こ裁きは能會
を判裁其はか
得所判決さ決
にを議る議
請爲にさ爲
求す代き爲
すこははす

953.

第十五百九第
條三

The provisions of Article 644 extend to members of a family council.

す之族規十第
な會定四六
準員は條百
用に親の四

第八章
の養扶
務義

CHAPTER VIII.

THE DUTY OF SUPPORT.

第一百五十九
條四

954.

な爲に姉及直
食す扶妹ひ系
ふ義養は兄血
務な互弟族

Lineal blood relatives, and brothers and sisters, are bound mutually to support one another.

のにのさ夫
間在し直他婦
亦るて系のの
同者其尊一一
しご家属方方

It is the same between one of two married persons and the lineal ascendants of the other who are in the family of the person in question.

第一百五十九
條五

955.

順行はる負扶
序す其場ふ養
左へ義合者の
のき務に敷義
如者を於人務
しの履てあな

In cases where this duty is incumbent on several persons, the order in which they must discharge it is as follows:—

- 者偶配(一)
屬卑系直(二)
屬尊系直(三)
主戸(四)
者け頂條(五)
たに第(五)
る掲二前
妹姉弟兄六

- i. A consort
- ii. A lineal descendant.
- iii. A lineal ascendant.
- iv. The head of the family.
- v. The persons mentioned in the second clause of the preceding Article.
- vi. Brothers and sisters.

はに屬直屬直
共於の系又系
親て間尊は卑

As between lineal descendants, or lineal ascendants, the person in the nearest degree of relationship is

preferred. It is the same between the lineal ascendants mentioned in the second clause of the preceding Article

等すき項の
の最條を
掲げ第
先も
も近
屬た二に

956.

第十五百九
條六

If several persons on whom the duty of support is incumbent rank together in order of priority, each person takes his, or her, share of the duty in proportion to his, or her, means. But as between a person who is, and one who is not, in the same family as the person to be supported, the former has the prior duty.

同順位
の扶養
義務は
各に
分る
を要す
が、同
一家に
在る者
と、同
一家に
在らざる
者との
間では、
前者は
後者に
優先する

957.

第十五百九
條七

If there are several persons who are entitled to support, and the means of the person upon whom the duty of support is incumbent are insufficient for the support of all, he, or she, must support them in the following order:—

扶養義務を負ふべき者の数は、その資力に依りて、その順序を定むる。但し、同一家庭に在る者は、互に扶養義務を負ふ。

- i. Lineal ascendants. 屬卑系直 (一)
- ii. Lineal descendants. 屬尊系直 (二)
- iii. A consort. 者偶配 (三)
- iv. The persons mentioned in the second clause of Article 954. たに第十 (四)
る掲二第
者げ項條五第
- v. Brothers and sisters. 妹姉弟兄 (五)

るけ○
家た○
族る前
者五
に誠
非に
さ掲

vi. Members of the family to which the person in question belongs other than those mentioned in the preceding five sub-headings.

之項の五第
な規條九
準場定第百
川合は二五
すに前項十

The provisions of the second clause of Article 955 extend to cases coming under the previous clause.

十五百九第
條八

958.

こ扶需る權同
さ養要利順
かかなき者位
得受應は數の
くし各人扶
るて其あ養

If several persons who are entitled to support rank together in the order of priority, they may receive support in proportion to their requirements.

な場は十第
準合前の六九
用に項規條百
す之の定但五

The proviso attached to Article 956 extends to cases coming under the previous clause.

十五百九第
條九

959.

こす義す己扶
さ自務能の養
能己者は資の
はのかさ産義
さ資れる又務
る産主さばは
さになき勞扶
き依るに務養
外りさのにな
同てきみ依せ
し教は存りく
此此仕てへ
な限「生き
受に用活若
く在扶んか
るら養爲日

The duty of support exists only if the person entitled to support is unable to subsist by his, or her, own resources, or labour. It is the same if the person in question is unable to be educated out of his, or her own resources.

く扶のて問兄
る養義はに弟
必を務扶在姉
要受は養リ妹

As between brothers and sisters the duty of support exists only if the necessity to receive support has

not arisen through any fault on the part of the person to be supported. But this rule does not apply to cases where the person upon whom the duty of support is incumbent is the head of the family.

すさす者か
きしの之
にて過な
の生失受
みしにく
存た因へ
在るらき

960.

條十六百九第

The extent of support to be given is determined by the requirements of the person entitled to support, and by the position and resources of the person upon whom the duty of support is incumbent.

むに身さ養扶
依分扶權養
り及養利の
てひ義者程
之資格の度
な力者需は
定さの要扶

961.

十六百九第
條一

The person upon whom the duty of support is incumbent must at his option either take charge of and support the person entitled to support, or provide the latter with the means of subsistence without taking charge of him. But if there is just reason for doing so, : Court of law may on the application of the person entitled to support determine the method of such support.

因きる引利扶
りはこ取者養
扶裁さらな義
養判なす引務
の所要し取者
方はすてりは
法扶但生て其
か養正活之機
定權當のな擇
む利の資養に
る者事判ひ從
この由を又ひ
と請あ給は扶
な求る付之養
得にさすな權

962.

十六百九第
條二

If in cases where the extent and method of support have been determined by a judicial decision a change occurs in the circumstances which constituted the ground for such decision, the person concerned

た決場り方扶
るの合て法養
事根に定かの
情勢於ま判に
にさてり決度
變爲其たに又
更り判る因は

得求又其きを may apply for the alteration, or annulment, of the de-
 すは判は生 cision in question.
 る叔決當し
 こ消の事た
 さを變ける
 な請更はさ

十六百九第
 條三

663.

さ分はく扶
 かす之る養
 得るを權を
 すこ處利受

The right to support cannot be disposed of.

BOOK V. SUCCESSION.

編五第

續相

CHAPTER I.

章一第

SUCCESSION TO THE HEADSHIP OF THE FAMILY.

續相督家

SECTION I.

節一第

GENERAL RULES.

則總

964.

十六百九第
條四

Succession to the headship of a family commences for the following reasons:—

て由は家
開に左督
始因の相
すり事續

- i. The death, abdication, or loss of nationality of the head of the family. 失國居亡主(一)
籍又、の(二)
妻は隱死戸
- ii. If the head of the family leaves it in consequence of the annulment of his marriage, or adoption. た其消子婚(二)
る家に縁姻(一)
さな因組又戸
き去りのは主
りて取養か
- iii. The marriage of the female head of a family with a man who enters her family, or the divorce of the *niū-fu*. 離又の(二)
婚は入(三)
入夫女
夫婚戸
の姻主

十六百九第
條五

965.

開にの相續家
始於住續は督
すて所人被相

Succession to the headship of a family commences at the domicile of the person succeeded to.

十六百九第
條六

966.

き開さ實又家
亦始るなは督
同のさ知具相
し時きり法續
よはに定回
り時る代復
二效時理の
十によ人請
年因りか求
なり五相繼
絶て年續は
過消間權家
し滅之侵督
たる害相
る相行の續
さ續は事人

The right of applying for the recovery of succession to the headship of a family ceases by prescription if it is not exercised within five years from the date on which the heir, or his, or her, legal representative, became aware of the fact of the right of succession having been injured. It is the same if twenty years have elapsed from the date of the commencement of the succession.

十六百九第
條七

967.

在因督り費相
らる相之用續
すも續なは財
の支其産
はの辨財に
此過す産關
限失但中ず
にに家よる

The expenses connected with the property of the succession are defrayed out of such property. But expenses caused by the fault of the heir to the headship of a family do not come under this rule.

こ以りか用前
さてて贈は項
な之得與遺に
要なたの留掲
せ支る減分け
す辨財殺權た
す産に利る
るな因者費

With regard to the expenses mentioned in the Preceding clause, a person who is entitled to the heir's portion is not required to defray them out of the property he, or she, has obtained by an abatement of donations.

SECTION II.

節二第

THE HEIR TO THE HEADSHIP OF A FAMILY.

人續相督家

968.

十六百九第
條八

A child in the womb is as regards succession to the headship of a family considered as having been already born.

されは相胎
看た既續兒
做るにには
すも生付家
のまで督

If the child in the womb is born dead, the provisions of the preceding clause do not apply.

せはれ體は前
す之たに胎頂
なるて兒の
適さ生々規
用きま死定

969.

十六百九第
條九

The following persons cannot succeed to the headship of a family :—

さ人家た左
なた督るに
得る相者掲
すみ續はげ

- i. A person who has received a criminal sentence for having wilfully killed, or attempted to kill, the person succeeded to,* or a person who ranks before him in the succession.

にさ死き又○
處んに先は○
せさ致順家故
らしし位督意
れた又に相に
たるは在續被
る爲死る人相
者めに者に續
刑致を付人

* This is the literal rendering of the Japanese term *hi-sō-zoku-nin*. The word "ancestor" cannot well be used with reference to *succession to the headship of a family*, because this succession arises from several causes besides death (see Art. 964). Nor would the term be always appropriate even in cases where death gives rise to succession *either to the headship of a family, or to property*, for a brother, or sister, and in certain cases even an ascendant, may succeed to the headship of a family, or to property, and the succession of a parent to the property of a child is under certain circumstances permitted by Japanese law.

り者其り(二)
し者て之被
さ自に是を相
き己は非告續
は此配の疑人
限偶辨又の殺
に者別は告され
在若なき訴た
らずはさせさ
す直きさるこ
系又りこさ
血はしし
族殺者な
な害但知

變之に因(三)
る更に關り詐
者取す被欺
る消る相欺
こ遺續又
ま又言人強
なはなか強
妨之爲相迫
けなし續に

しし續因(四)
めめしにり
た又め關相詐
るはす續欺
者之之る人又
者なを遺なは
なを言強
變取言し迫
更消て追
せさ爲相に

る又造のす(五)
者は、造る被相
は、變言被相續
藏、造書相續
匿、し毀を續に
た滅偽人關

- ii. A person who knowing of the murder of the person succeeded to* has failed to lay a criminal information,† or to bring a criminal charge. But if the person in question cannot distinguish between right and wrong, or if the murderer is the consort, or a lineal blood relative, of the person in question, this rule does not apply.
- iii. A person who has by fraud, or compulsion, interfered with the making, cancellation, or alteration of a will concerning the succession by the person succeeded to.
- iv. A person who has by fraud, or compulsion, caused the person succeeded to to make, cancel, or alter, a will concerning the succession.
- v. A person who has forged, altered, destroyed, or concealed the will of the person succeeded to concerning the succession.

* *Koku-hatsu*, according to the Code of Criminal Procedure, is information of an offence (crime, or delict,) given to the Judicial or Police Authorities by any (disinterested) person who has knowledge of its commission, or has reason to believe that it has been committed.

† *Koku-so*, according to the same Code, is a criminal charge made to the Judicial or Police Authorities by a person who has suffered injury by the commission of an offence (crime, or delict,) and is therefore an interested party.

The lineal descendants of the person succeeded to who are members of his family succeed to the headship of the family in accordance with the following provisions:—

る家左た被
督のる相
相規直續
續定系人
人に卑の
さ從屬家
爲ひは族

- i. As between persons in different degrees of relationship, the nearest relative is preferred. すきり者異(一)
者てのな(二)
なは間り親
先其にた等
に近在るの
- ii. As between persons in the same degree of relationship, the male is preferred. す男在者の(三)
なりの同(四)
先て間し親
にはにき等
- iii. As between males or females in the same degree of relationship, a legitimate child is preferred. す出在は同(五)
子り女し(六)
なてのき親
先は間男等
に嫡に父の
- iv. As between a legitimate child, a *sho-shi*,* and an illegitimate child who are in the same degree of relationship, the legitimate child and the *sho-shi*, even if females, come before an illegitimate child. 先離出子出(四)
にも子の子(五)
す之及間親
なひに庶等
私庶在子の
生子り及同
子はてひし
よ女は私き
りさ嫡生嫡
- v. As between persons who stand in the same position in respect of the points mentioned in the preceding four sub-headings, the senior in age is preferred. 長間きけ(五)
者に相た(六)
な在る前
先りし事四
にてき項號
すは者にに
年の付掲

A person who has acquired either in accordance with the provisions of Article 836, or by adoption, the status of a legitimate child is as regards な出組り條第
取子に父の八
得た因は規百
しるり養定三
た身て子に十
る分嫡繼依六

* See page 1.

倣れした付者 succession to the headship of a family considered as
 すたたるては having been born at the time of acquiring the
 る身は家 status in question.
 も時分其督
 のに嫡相
 と生取出續
 看ま得子に

十七百九第
 條一

971.

な條百定前
 妨の三は條
 け適十第の
 す用六七規

The provisions of the preceding Article do not preclude the application of Article 736.

十七百九第
 條二

972.

にりた八第
 從第るる條七
 ひ九他直の百
 て百の系規三
 家七直卑定十
 督十系屬に七
 相條卑は依條
 續に屬嫡り及
 人定な出てひ
 さめき子家第
 爲た場又族七
 るる合はさ百
 順に庶爲三
 序限子リ十

A lineal descendant who has become a member
 of a family in accordance with the provisions of
 Articles 737 and 738 succeeds to the headship of
 the family, in accordance with the order of priority
 laid down in Article 970, only in cases where there
 is no other lineal descendant who is a legitimate child
 or a *sho-shi*.*

十七百九第
 條三

973.

は續督定の法
 其人相家推定

The right of succession of a legal presumptive†

* See page 1.

† The word "presumptive" is the literal rendering of the
 Japanese word *Sui-iei* as it is used in Article 743, and elsewhere in
 the Code, and the Japanese term translated by the words "pre-
 sumptive heir" has not the special sense which attaches to these
 words in English law but means simply *the person in regard to whom
 the presumption exists that he will succeed*. The term is employed in
 order to establish a distinction between a person upon whom the
 succession actually devolves,—*in the case of succession to the headship
 of a family*, upon the death, abdication, loss of nationality etc. of the
 person succeeded to, and, *in the case of succession to property*, upon the
 death of the person succeeded to,—and one whose succession is only
 prospective, and may therefore be defeated by his pre-deceasing the
 person succeeded to, by his disinheritation, or by his inability to
 succeed through other causes. In other words the use of the words

heir to the headship of a family is not injured by an adoption effected* on behalf of a sister.

いにて縁に姉
こ害其組す妹
させ相にの
なら續因養爲
しる權り子め

974.

十七百九第
條四

In cases where a person who would succeed to the headship of the family in accordance with the provisions of Articles 970 and 972 dies, or loses his, or her, right of succession, before the succession commences, if he, or she, has a lineal descendant, the latter succeeds in the same rank as the former to the headship of the family in conformity with the order laid down in Articles 970 and 972.

者條に死て第
及直亡家九
同ひ業し督百
順第卑又相七
位九屬は續十
に百あ其人條
於て七さ相た
て十さ續るひ
家二き權へ第
督條はなき九
相に其失者百
續定直ひ七
人め系た家二
さた卑る督二
爲る屬場相條
る順は合續の
序第にの規
に九於開定
從百て始に
ひ七其前依
其十者にリ

975.

十七百九第
條五

If any of the following reasons exist in respect

に續督定の定
付人相家推法

“heir” and “presumptive heir” depends on whether the succession has commenced, or not, in favour of the person to whom the term is applied.

The Code recognizes three modes of succession to the headship of a family, namely:—

- a). By the operation of law. (Articles 970 and 974).
- b). By the appointment of the person succeeded to during the latter's lifetime, or by will, (Articles 979 and 981).
- c). By choice, (Article 982).

An heir to the headship of a family may therefore be legal, appointed, or chosen, but a presumptive heir to the headship of a family must be either a legal presumptive heir, or a presumptive heir appointed by the person succeeded to during the latter's lifetime.

Heirs and presumptive heirs to property on the other hand must always be legal, but as there is no other mode of succession, the Code speaks of them simply as “heirs” or “presumptive heirs,” and these terms in this context have not the comprehensive meaning which they possess in the case of succession to the headship of a family.

* i.e. by the head of the family on behalf of a sister of the heir.

こ判續はさき of a legal presumptive* heir to the headship of a
 なにの推はの family, the person succeeded to may apply to a Court
 得請廢定被事 of law for the heir's disinheritance:—
 求除家相由
 すな督續ある
 る裁相人る

こ尋ににに(一)
 こを重爲對(二)
 加大しし被
 へな又て相
 たるば虐續
 る侮之待人

こ堪家の身(一)
 こへ政狀體(二)
 さな況又病
 る執には症
 へる因精其
 きにり神他

る處因す汚(三)
 こせりへ辱(三)
 こらてきを家
 これ刑罪及名
 たににほに

望告て(四)
 なを準(四)
 き受禁派
 こけ治費
 こ改産者
 せのさ
 の宜し

こ除同續あ此
 なを意入る他
 得請をばさ正
 求得親き當
 すて族はの
 る其會被事
 こ廢の相由

十七百九第
 條六

執たる相を被
 行る意續以相
 者さ思入て續
 ばきをな推入
 其は表廢定い
 遠遺示除家遺
 言言しす督言

- i. The subjection of the person succeeded to to cruel treatment, or gross insult.
- ii. Inability through illness, or any other physical or mental condition, to administer the affairs of the family.
- iii. Having received a criminal sentence for an offence of a nature to disgrace the family name.
- iv. If he, or she, has been interdicted, as a spendthrift, from the management of his, or her, property, and there is no hope of reformation.

If there is any other just reason, the person succeeded to may, with the consent of the family council, apply for the heir's disinheritance.

976.

If the person succeeded to has by will expressed an intention to disinherit the presumptive* heir to the headship of the family, the executor of the will must after the will takes effect apply without delay

* See Note on page 100.

to a Court of law for the disinheritance of the person in question. In such cases disinheritance takes effect retrospectively from the date of the death of the person succeeded to.

り相此請滞い
て續場求な効
其人合なく力
効のに爲裁な
力死於す判生
な亡てこ所し
生の廢さにな
す時除な廢る
には要除後
週被すの運

977.

十七百九第
條七

If the reason for the disinheritance of a presumptive* heir to the headship of a family ceases, the person succeeded to, or the presumptive* heir, may apply to a Court of law for the annulment of the disinheritance.

す取家はの推
る消督被原定
こを相相因家
さ茲續續止督
を判人人ろ相
得所は又た續
に廢はる人
請除推さ廢
求の定き除

In cases coming under sub-heading i. of Article 971 the person succeeded to may at any time apply for the annulment of the disinheritance.

このはに一第
さ取何於項九
か消時て第百
得なには一七
請て被號十
求も相の五
す廢續場條
る除人合第

The provisions of the two preceding clauses do not apply after succession has commenced.

適後總規前
用は開定二
せ之始に項
すなの相の

The provisions of the preceding Article extend to the annulment of disinheritance.

用之取廢規前
すな消除定條
準にのはの

978.

十七百九第
條八

If succession commences after an application for the disinheritance of a presumptive* heir to the headship of a family, or an application for annulment of such

相載あ其人推
續判り取の定
い確た消廢家
開定るの除督
始前後請又用
しに其求は續

* See Note on page 100.

遺言の係たる
言る行人と
あつた使又
り處及び
分たし
た命遺事
る産の裁
さるの請判
き管理所
亦理に親
同し因族
し得付り
廢き戸利
除必主害
の要權關

disinheritance, has been made to a Court of law, but before a final* decision has been given, the Court of law may, on the application of a relative, an interested party, or a public prosecutor, order the necessary steps to be taken for the exercise of the rights of the head of the family, and the management of the property left. It is the same in cases where there is a will disinheriting the heir.

準十台を兼
用九七に選
す條條於任
乃てし
規至はた管
定第第る理
な二二揚人

The provisions of Articles 27-9, inclusive, extend to cases where a manager is selected by a Court of law.

十七百九第
條九

979.

さ督得相き法
き相此續さ定
は續指人さの
其人定な推
効あは指被定
力に法定相家
な定す續相
失至のる人相
ふり推こは續
た定さ家人
る家を督な

If there is no legal presumptive† heir to the headship of a family, the person succeeded to may appoint an heir. Should it happen that there is after all a legal presumptive† heir, this appointment ceases to be valid.

さ消之指續家
かすを定人督
得こ取はの相

The appointment of an heir to the headship of a family may be cancelled.

すの相居は前
み續に死二
之の因亡項
を場る又の
適合家は規
用に督隱定

The provisions of the two preceding clauses shall be applied only in cases where succession is the result of death, or abdication.

* See Note on page 57 of Civil Code of Japan (Part I).

† See Note on page 100.

980.

條十八百九第

The appointment of an heir to the headship of a family, or its cancellation, takes effect when notice thereof is given to a registrar.

に吏消指家
生因には定督
すり届之及相
て出なひ續
效つ戸其人
力る籍取の

981.

十八百九第
條一

If the person succeeded to expresses by will an intention to appoint an heir to the headship of the family, or to cancel such appointment, the executor of the will must after the will takes effect give notice thereof without delay to a registrar. In such cases the appointment, or its cancellation, takes effect retrospectively from the death of the person succeeded to.

續要後は又被
人す選遺は相
の此滞言其續
死場な執取人
亡合く行消か
のに之者を遺
時於なは爲言
にて戸其すな
選指籍遺意以
り定吏言思て
て又にかを家
其は届效表督
效其出力示し
力取つなし續
な消る生たの
生はこしる人
す被さたさ指
相なるき定

982.

十八百九第
條二

In cases where there is neither a legal nor an appointed heir to the headship of a family, the father of the person succeeded to, if he is in the family, or if there is no father in the family, or if he is unable to express an intention, the mother, or if there is neither father nor mother in the family, or if neither is able to express an intention, the family council chooses an heir from among the members of the family in accordance with the following order:—

順みささ家法
序表ききに定
に示は又被又
從す母は相は
ひる父續指
家族父か人定
中さ母其の家
能共意父督
よりはに思あ相
さるる表示さ續
家督さるる示さ人
相さるるすはなき
續はさるる父場
は親きさ父合
な族義は能あに
選會は其はら於
定は其はさて
す左意さる其
の思るる其

さな家者配（一）
きる女但偶

i. A wife; if she is a woman of the family.

弟兄（二）

ii. Brothers.

妹姉（三）

iii. Sisters.

偶さ該一（四）
者當號
配せに第

iv. A wife who does not come under sub-heading i.

屬系の姉兄（五）
卑直妹弟

v. Lineal descendants of a brother or sister.

十八百九第
條三

983.

定の可憐き家
な順な台者督
爲序待には相
さなて限正續
さ據前り當人
る史條裁のな
こしに判事選
さ又據所出定
なはけつめす
得選た許るへ

The person, or persons, who have to choose an heir to the headship of a family may in cases where there is a just reason, with the permission of a Court of law, alter the order mentioned in the preceding Article, or may cause no choice to be made.

十八百九第
條四

984.

の人親さり第
間さ等きて九
に爲のは家自
在る最家督ハ
り但もに相十
て親近在續二
は等さる人條
男の者直たの
な同家系る規
先し督尊者定
にき相屬ない
ず者續中き依

If there is no heir to the headship of the family in accordance with the provisions of Article 982, the ascendant in the family who is in the nearest degree of relationship succeeds to the headship of the family. As between persons in the same degree of relationship the male is preferred.

十八百九第
條五

985.

の會き續依前
親はさ人り條
族破きたての
相はる家規
家續親者督定
族、人族な相に

If there is no heir to the headship of a family in accordance with the provisions of the preceding Article, the family council chooses an heir from

among the relatives of the person succeeded to, the heads of cadet branches of the family, or the members of the main, or cadet, branches of the family.

な家又分
選督族はは家
定相中分本の
す續よ家家戸
人りの若主

If there is no one among the persons mentioned in the preceding clause who can become heir to the headship of the family, the family council chooses an heir from among other persons.

り會な續者前
之はき人の項
を他さた中に
選人きるに揭
定のはへ家け
す中親き督た
よ族者相る

Notwithstanding the provisions of the two preceding clauses, the family council may in cases where there is a just reason, with the permission of a Court of law, choose some other person.

定可は第由親
すなら二お族
る得す項る會
こて裁の場は
さ他判規合正
な人所定に當
得なのに限の
選許拘り事

SECTION III.

節三第

EFFECT OF SUCCESSION TO THE HEADSHIP OF A FAMILY.

の續相督家 力致

986.

十八百九第
條六

The heir to the headship of a family inherits from the date of the commencement of the succession the rights and duties possessed by the previous head of the family. But rights and duties which belonged personally and exclusively to the former head of the family do not come under this rule.

此の利時案
限一義よ督
に身務り相
在にな前續
ら尊承戸人
す屬繼主は
せすの相
る但有續
も前せ開
の戸と始
は主續の

十八百九第
條七

987.

に家墳系
屬督墓譜、
す相の祭
續所祭
の有具
特權及
權はひ

The ownership of the records of the family genealogy, of the utensils and furniture of worship, and of the family tombs, belongs to the special rights of succession to the headship of a family.

十八百九第
條八

988.

定續保證す隠
に人す書女居
違のるに戸者
反還こ依主及
す留さりはひ
る分をて確入
こに得其定夫
さ關但財日婚
をす家産附姻
得る督をあな
す規相留る爲

A person who abdicates, and a female head of a family who contracts a *niū-fu** marriage, may by a deed bearing a fixed date retain his, or her, property. But the provisions relating to the heir's portion must not be contravened.

十八百九第
條九

989.

すし權に因隱
こて者於る居
辨はて家又
な濟其は督は
得の前前相入
請戸戸續夫
求主主の婚
をにの場姻
爲對債合に

In cases where abdication, or marriage with a *niū-fu**, gives rise to succession a creditor of the previous head of the family may call upon the latter to satisfy his claim.

て移た場の入
之のり合離夫
を辨しに婚婚
請濟問於に姻
求はにて因の
す其負はる取
る入撥入家消
こ夫し夫督又
さにたの相は
を對る戸續入
得し債主の夫

In cases where succession is the result of the annulment of a marriage with a *niū-fu**, or the divorce of a *niū-fu**, the latter may be called upon to satisfy any debts incurred by him while he was head of the family.

續督は規項前
人相家定の二

The provisions of the two preceding clauses do

* See Note on page 27.

not preclude the creditor from calling upon the heir to the headship of the family to satisfy his claim.

すなるに
妨請對
け求す

990.

條十九百九第

The heir to the headship of a family who succeeds a person who has lost his national status inherits only the rights of head of a family, and the rights which belong to the special rights of succession to the headship of a family. But he is not precluded from inheriting the heir's portion, or the "succession property" specially determined as such by the previous head of the family.

すかの及國
る特みひ籍
こにな家裏
ご指承者失
な定繼相者
妨しす續の
けた但の家
する遺特督
相留繼相
續分に續
財及屬人
産ひすは
な前る戸
承戸繼主
繼主利權

If, in cases where a person who has lost his national status possesses rights which he is unable to enjoy unless he is a Japanese, the person in question does not transfer them within one year to a Japanese, these rights revert to the heir to the headship of the family.

利に於ささ國
は讓てるれ籍
家渡一繼は裏
督さ年利享失
相さ内を有者
續るに有すか
人さ之する日
にきなるこ本
歸は日場さ人
屬其本合をに
す權人に得非

991.

十九百九第
條一

In cases where loss of national status gives rise to succession a creditor of the former head of the family may call upon the heir to the headship of the family to satisfy his claim to the extent of the property which he has received.

求限し債の國
な度て繼場籍
爲には者合裏
す於其はに失
ここのけ督て因
なみた相はる
得辨る續前家
濟財人戸督
の産に主相
請の對の續

章二第

CHAPTER II.

續相産遺

SUCCESSION TO PROPERTY.*

節一第

SECTION I.

則總

GENERAL RULES.

十九百九第
條二

992.

始り亡族續遺
すてにのは産
閉因死家相

Succession to property begins by the death of
a member of a family.

十九百九第
條三

993.

之遺條九五第
な産の百條九
準相規六乃百
用按定十至六
すには八第十

The provisions of Articles 965-8, inclusive, ex-
tend to succession to property.

節二第

SECTION II.

人續相産遺

HEIRS TO PROPERTY.

十九百九第
條四

994.

從規は系人被
ひ定左卑の相
違にの属直續

The lineal descendants of the person succeeded
to succeed to his property in conformity with the

* Succession to the property of a deceased person as deter-
mined by law (i.e. intestate succession).

following provisions:—

るる親産
為人相

- i. As between persons in different degrees of relationship, the nearest is preferred. すきり者異〇
者てのな〇
なは間り親
先其にた等
に近在るの
- ii. Persons in the same degree of relationship rank together. 人違位者の〇
と産には同〇
爲相於同し親
る續て顧き等

995.

十九百九第
條五

In cases where one, or several, of the persons upon whom the succession would devolve in accordance with the provisions of the preceding Article die, or lose their right of succession before the succession commences, if such person, or persons, have lineal descendants, the latter succeed to the property in the same rank as the former in conformity with the provisions of the preceding Article.

同系て又る前
順卑其はへ條
位屬者其きの
にはに相者規
於前直續か定
て餘系繼相に
違の卑な續依
産規屬失のり
相定あひ開て
續にるた始遺
人從さる前産
さひき場に相
爲其は合死續
る者其に亡人
と直於した

996.

十九百九第
條六

In cases where there is no one upon whom the succession would devolve in accordance with the provisions of the two preceding Articles the order of priority of the persons upon whom the succession to the property devolves is as follows:—

者違きて前
の産者遺二
順相な産條
位續き相の
左な場續規
の爲合人定
如すにたに
しへ於る依
きてへり

- i. A consort. 者偶配 一第
- ii. Lineal ascendants. 尊系直 二第
屬
- iii. The head of the family. 主戸 三第

す規九ての前
定十は場項
な四第合第
準條九に二
用の百於號

The provisions of Article 994 extend to cases coming under sub-heading ii. of the previous clause.

十九百九第
條七

997

さ人違た左
なた産るに
得る相者掲
すこ續はけ

The following persons cannot succeed to property :—

に致者位は○
處さを若違○
せん死く産故
らさには相意
れし致同續に
たたし順に被
るる又位付相
者爲はにき續
め死在先人
刑にる順又

- i. A person who has received a criminal sentence for having wilfully killed, or attempted to kill, the person succeeded to, or a person who ranks before, or with, him in the succession.

た號乃條百○
るに至第六○
者掲第二十第
け五號九九

- ii. The persons mentioned in sub-headings ii. to v., inclusive, of Article 969.

十九百九第
條八

998.

裁推加爲人遺
判定へしか留
所違た又被分
に産るは相な
請相さ之續有
求續きに人す
ず人は重にる
る廢被大對推
こ除相なし定
さの續るて遺
な取人侮虐産
得消は辱待相
な其なを續

If a presumptive* heir to property who is entitled to the heir's portion treats with cruelty, or grave insult, the person succeeded to, the latter may apply to a Court of law for his disinheritance.

十九百九第
條九

999

推て時は續被
定もに何人相

A person succeeded to may at any time apply

to a Court of law for the annulment of the disinher-
heritance of the presumptive heir to property.

人違
取人達
請求
裁の
得るに
な
るに
請裁の
續

1000.

條千第

The provisions of Articles 976 and 978 extend
to the disinheritance of presumptive heirs to property
and to the annulment of such disinheritance.

に廢定八及第
之除遺條ひ九
な及産の第百
準ひ相規九七
用其續定百十
す取人は七六
消の推十條

SECTION III.

節三第

VALIDITY OF SUCCESSION TO PROPERTY.

力の相違
效權産

SUB-SECTION I.

款一第

GENERAL RULES.

則總

1001.

條一千第

An heir to [property inherits from the date of
commencement of the succession the rights and duties
which belonged to the property of the person suc-
ceeded to. But rights and duties which belonged
personally and exclusively to the latter do not come
under this rule.

在に承属時流
ら専繼せよ産
す属すしり相
せ但一被續
し被切相人
も相の續は
の續權入相
は入利の續
此の義財開
限一務産始
に身なにの

條二千第

1002.

には相る人達 If there are several heirs to property, the pro-
 屬其續と數產 perty of the succession is owned by them jointly.
 す共財き人相
 有産はあ續

條三千第

1003.

承權被分人各 Each of the co-heirs inherits the rights and
 繼利相には共 duties of the person succeeded to in proportion to
 す義續應其同
 務人し相相
 なつて續續 his, or her, share of the succession.

款二第

SUBSECTION II.

分續相

SHARES OF SUCCESSION.

條四千第

1004.

分子人しき同 If there are several heirs who rank together,
 ののあきは順 they share equally in the succession. But if there
 二相るも其位
 分續その各の
 の分きと自相 are several lineal descendants, the share of a *sho-shi*,
 一ははすの續 and that of an illegitimate child, are fixed at half of
 と嫡庶但相人
 す出子直續數 the share of a legitimate child.
 子及系分人
 のひ卑はあ
 相私屬相る
 續生數均と

條五千第

1005.

續系續に五第 The share of a lineal descendant who is an heir
 分卑人依條九 in accordance with the provisions of Article 995 is
 は屬たりの百
 其のるて親九
 直相直相定十 the same as that which would have been received

by his, or her, lineal ascendant. But if there are several lineal descendants, their shares are determined in conformity with the provisions of the preceding Article according to the portions which would have been received by their respective lineal ascendants.

てに算あつての系
其付屬るに車
相きつた同屬
續前受さし
分條くは但受
なへの其直く
定規の各系へ
む定期自專い
にしの屬り
從部直數し
ひ分系人も

1006.

條六千第

Notwithstanding the provisions of the two preceding Articles, a person succeeded to may by will determine, or depute a third person to determine, the shares in the succession of the co-heirs. But the person succeeded to, or the third person in question, cannot contravene the provisions relating to the heir's portion.

に又者なす被
違はに定達相
反第委め言續
す三託又な人
る者すは以前
こはる之て前
さ違こな共二
さ留さ定同條
得分なむ相の
すに得る續規
關但こ人定
す被さのに
る相な相拘
規續第續は
定人三分ら

If the person succeeded to determines, or causes to be determined, the share, or shares, in the succession of only one, or some, of the co-heirs, the shares in the succession of the other co-heirs are determined in accordance with the provisions of the two preceding Articles.

依のたみ一被
り相るな人相
て續さ定若續
之分きめく人
なには又はか
定前他は數共
む二の之人同
條共なの相
の同定相續
規相め續人
定續し分中
に人めのの

1007.

條七千第

If one of several co-heirs has received from the person succeeded to a bequest, or has received from him, or her, a donation for the purpose of marriage, or adoption, of establishing a fresh branch of the

め廢養な相共
若絶子受續同
家縁け人相
く再組又よ續
は興分はり人
生の家婚達中
計爲る細繼被

てよし其續の family, or of resuscitating a family which has died
 其り前贈人資 out, or as capital for subsistence, the value of the
 者其三與の本 out, or as capital for subsistence, the value of the
 の遺條の相さ bequest, or donation, in question, added to the value
 相贈の價續し bequest, or donation, in question, added to the value
 續又規額開て of the property possessed by the person succeeded
 分は定を始贈 of the property possessed by the person succeeded
 と贈に加の與 to at the date of commencement of the succession, is
 す與依へ時を regarded as the property of the succession, and the
 のりたに受 value of the bequest, or donation, having been de-
 價てゐる於け ducted from the recipient's share of the succession, as
 額算もてた value of the bequest, or donation, having been de-
 を定の有る value of the bequest, or donation, having been de-
 控しなせ者 ducted from the recipient's share of the succession, as
 除た相しある calculated in accordance with the provisions of the
 する續財る calculated in accordance with the provisions of the
 其相財産さ calculated in accordance with the provisions of the
 殘續産のき three preceding Articles, what remains over is fixed
 額分さ價は as such person's share in the succession.
 なの看額被
 以中儘に相

く贈さしか遺 If the value of such bequest, or donation, exceeds
 る者きく相贈 the value of his share of the succession, the legatee
 こはは又贈又 the value of his share of the succession, the legatee
 こ其受は分は or donee, cannot receive his share.
 な相遺之の贈
 得續者に價與
 ず分又超額の
 をはゆに價
 受受る等額

内る思表定被 If the person succeeded to expresses an intention
 に規表示に相 contrary to the provisions of the two preceding clauses,
 於定示し異續 such intention is valid so long as it does not con-
 てにはたな人 travene the provisions relating to the heir's portion.
 其反違りか
 效せ留とる前
 力さ分きる二
 をるには意項
 有範關其思の
 す圍す意を規

條八千第

1008.

さ價財爲の前 With regard to the value of the donation men-
 き格産に價條 tioned in the preceding Article, even if the property
 さのか因額に which is the subject of the donation has been de-
 雖増減りは掲 stroyed, or reduced in value, by the act of the donee,
 も減失其受け destroyed, or reduced in value, by the act of the donee,
 相あし目贈た it will be regarded as being in the condition in which
 續り又的者る
 開たはたの贈
 始る其る行與

it was at the date of commencement of the succession, and its value determined accordingly.

を做もてほの
定しの存原當
むてさす狀時
之着るに仍

1009.

條九千第

If one of the co-heirs before the distribution of the property transfers his share of the succession to a third person, the other co-heirs may repay to the latter its value, and any expenses incurred in connection therewith, and acquire by transfer from him the share in question.

讓用同讓前共
受を相渡に同
く償續し其相
る還人た相續
こしてはる續
な其價さ分
得相額は第
續及他三
分の者か
な費共割

The right mentioned in the preceding clause must be exercised within one month.

する之一た前
こを今る項
さ行月權に
な使内利定
要すにはめ

SUB-SECTION III.

款三第

DISTRIBUTION OF PROPERTY.

割分の產遺

1010.

條十千第

A person succeeded to may by will determine, or depute a third person to determine, the method of distribution of his property.

る第な法を被
こ三定を以相
さ者む定て續
なにするめ分
得委こ又割は
託さばの遺
すな之方言

1011.

條一十千第

A person succeeded to may by will forbid the distribution of his property to take place within a

時開て言人被
し始相なは相
りの續以遺續

この繼承の五年以内にその繼承の開始する期を超す時
 period not exceeding five years from the date of commencement of the succession.

條二十千第

1012.

力に相違
 な過續産
 生り開の
 すて始分
 す其の割
 効時は

The distribution of property takes effect retrospectively from the date of commencement of the succession.

條三十千第

1013.

に續對付始各
 任分しき前共
 すに賣他より
 應主のり相
 しと共存續
 て同同するは
 擔し相るは
 保く續事相
 の其人由續
 責相にに開

In proportion to his share of the succession each co-heir has, in respect of reasons existing before the commencement of the succession, the same responsibility of guarantee towards the other co-heirs as a seller.

條四十千第

1014.

資當た入分各
 力時るかに共
 なに債分應同
 擔於權割し相
 保けにに他續
 する付因の人
 續きり共は
 務分て同其
 者割受相相
 ののけ續續

In proportion to his share of the succession each co-heir guarantees the solvency, at the time of distribution, of a debtor in respect of a claim acquired by another co-heir by reason of the distribution.

のき續權權辨
 實時人に及濟
 力には付ひ期
 な於辨て停に
 擔け濟は止ら
 保るを各條
 す償爲共件さ
 務す同附
 者へ相償直

In the case of a claim the payment of which is not yet due, each co-heir guarantees the solvency of the debtor at the time when payment is due.

1015.

條五十千第

If one of the co-heirs who have the responsibility of guarantee is without the means to repay his share of the debt, the portion he is unable to repay is borne by the co-heir claiming re-imbursement, and the other solvent co-heirs, in proportion to their respective shares of the succession. But if any fault has occurred on the part of the co-heir claiming re-imbursement, he cannot call upon the other co-heirs to bear their shares of the debt.

し者能増
て各は資
分其さ保
擔相るの
を續き責
を分任
請分はす
求るに
るべき
るに求
るに償
るに者
るに及
るに其
るに他
るに償
るに人
るに中
るに選
るに償
るに還
るにを
るに爲

1016.

條六十千第

If the person succeeded to expresses an intention contrary to the provisions of the three preceding Articles, these provisions are not applied.

せと思を被
すきは以相
は表て續
は示別人
なし段の
適たの規
用る定
意言は

CHAPTER III.

章三第

ACCEPTANCE AND RENUNCIATION
OF SUCCESSION.ひ承相
拋認續
棄及の

SECTION I.

節一第

GENERAL RULES.

則總

1017.

條七十千第

An heir must within one month after he, or

相めの自人相
續に義己は廣

之拾要定時の
な事すのい開
伸の但承り始
長請此認三あり
す求期又今あり
るに間は月た
こり利棄にこ
な裁害を單と
得判關爲純を
所係す若知
に人こくり
於又こはた
てはを限る

she, becomes aware of the commencement of succession on his, or, her, behalf accept the succession, either unconditionally, or conditionally, or renounce it. But this period may be extended by a Court of law on the application of an interested party, or of a public prosecutor.

こ調相を認相
池宣續爲又續
むを財す人
得爲産前抛は
すのに棄承

An heir may before acceptance or renunciation make an examination of the property of the succession.

條八十千第

1018.

たの相前さ相
る開續條し續
時始人第し人
よりあ一てい
り自項死承
之た己の亡認
なるの期し又
起こ爲間たは
算さめはる抛
すな其さ棄
知相者きな
り續のは爲

If an heir dies before accepting or renouncing the succession, the period mentioned in the first clause of the preceding Article is reckoned from the date on which his, or her, heir, or heirs, become aware of the commencement of succession on his, or her, or their behalf.

條九十千第

1019.

る始能期さ相
時め力間は續
より者は第人
りたの其千か
之る爲法十無
なこめ定七能
起さに代條力
算な相理第者
す知續人一な
りのい項る
た開無のさ

If an heir is without legal capacity, the period mentioned in the first clause of Article 1017 is reckoned from the time his, or her, legal representative becomes aware of the commencement of succession on the heir's behalf.

條十二千第

1020.

な抛人相家法
爲案は續管定

A legal heir to the headship of a family cannot

renounce a succession. But this rule does not apply to the persons mentioned in Article 984.

らに攝八す
す此け十但こ
限た四第さ
にる條九な
在者に百得

1021.

條一十二千第

An heir must until such time as he, or she, accepts, or renounces, the succession manage the property of the succession with the same care as his, or her, own* property. But if he, or she, accepts, or renounces, the succession, this rule does not apply.

ははる以於相
此抛こてけ續
限棄さ相る人
になな續さは
在爲要財同其
らしす産一固
すた但なの有
る承管注財
と認理意産
き又すなに

A Court of law may at any time on the application of an interested party, or a public prosecutor, order the necessary steps to be taken for the preservation of the property of the succession.

す必相に人裁
る要續因又判
こな財りは所
さる産何給は
な處の時事利
得分保にの害
な存て請關
命にも求係

The provisions of Articles 27-9, inclusive, extend to cases where a Court of law selects a manager.

準十十合を裁
用九七に選判
す條條に任所
の乃てし
規至はた管
定第第る理
な二二場人

1022.

條二十二千第

Acceptance and renunciation cannot be cancelled even within the period named in the first clause of Article 1017.

す消さ一第承
す雖項千認
こもの十及
さ之期七抛
かの間條棄
得取内第は

The provisions of the preceding clause do not preclude the cancellation of acceptance and renunciation in accordance with the provisions of Book I.

爲抛り編第前
す棄ての一
この承規編の
さ取認定及規
を消又にひ定
妨なは依前は

* The expression *ko-yō no zai-san* includes property apart from that which is acquired by the succession.

を認は个爲け
經又時月すす
過は效間こ但
し抛に之さ其
た棄因なを取
るのり行得消
さ時てはる權
きよ消さ時ほ
亦り減るよ追
同十すこり認
し年承き六を

and the preceding Book. But if the right of cancellation is not exercised within six months after ratification is possible, it ceases by prescription. It is the same if ten years have elapsed since acceptance, or renunciation.

節二第

SECTION II.

認承

ACCEPTANCE.

款一第

SUB-SECTION I.

認承純單

UNCONDITIONAL ACCEPTANCE.

條三十二千第

1023.

繼權に承相
す利被と認續
義相きな人
務續は爲か
な人無し單
承の限た純

If an heir accepts unconditionally, he or she inherits unconditionally the rights and duties of the person succeeded to.

條四十二千第

1024.

する承相場左
も認續合に
のな入に掲
さ爲は於け
看し單てた
做た純はる

In the following cases an heir is regarded as having accepted unconditionally:—

し部部財人○
たな父産か○
る處はの相相
と分一全續續

- i. If he, or she, has dealt with the whole or a part, of the property of the succession.

But acts for the preservation of the property, and letting to hire for a period not exceeding that fixed in Article 602, do not come under this rule.

爲該定ひき
すすめ第但
はきた六保
此るる百存
限賃期二行
に賃間條爲
在なをに及

ii. If he, or she, has neither accepted the succession conditionally, nor renounced it, within the period mentioned in the first clause of Article 1017.

爲承の千(一)
さ認期十(二)
さ又間七相
りは内條續
し抛に第人
さ棄限一か
きを定項第

iii. If even though he, or she, has accepted the succession conditionally, or renounced it, he, or she, has concealed, or privately consumed, or acting in bad faith has omitted to enter in the list of property, the whole or a part of the property of the succession. But this rule does not apply after the person who has acquired the right of succession by the heir's renunciation has accepted.

か棄目し後(三)
承を録私さ(三)
認爲中に雖相
なした之も續
爲たる部を相人
する載消續か
たるにせ費財限
る因さし産定
後りり又は全認
は相しし惡部又
此相き意若は抛
座續さ但なく棄
に人さ其以はな
在ら爲相て一な
すり續之部爲し
たる人なをし
る財隱た
者抛産匿る

SUB-SECTION II.

款二第

CONDITIONAL ACCEPTANCE.

認承定限

1025.

條五十二千第

An heir may accept with the reservation that he will pay the debts and bequests of the person suc-

て限るり相相
の度財で續續
みに産得に入
被於のた因は

を認を濟及相
得を留すの續
爲保へ遺人
すしき贈の
こてこを債
と承と辨務

ceeded to to the extent only of the property acquired by him, or her, by reason of the succession.*

條六十二千第

1026.

述出を第と相
すし調一欲續
る限製項す人
こ定しのるか
と承て期と限定
なを認之罰き定
要なを内は承
す爲裁に第認
す判財千ハ
旨所産十爲
なに目七さ
申提録條ん

If an heir wishes to accept conditionally, he, or she, must prepare a list of the property within the period mentioned in the first clause of Article 1017, and, producing it before the Court of law of the place where the succession commences, state his conditional acceptance.

條七十二千第

1027.

のはて其な相
と消有被爲續
看滅せ相し人
做せし續たか
すり權人限定
り利にと定
し義對き承
も務しは認

If an heir accepts conditionally, the rights and duties which he, or she, possessed towards the person succeeded to are regarded as not having ceased.

條八十二千第

1028.

るのなる固限
こ管以と有定
と理て同財承
なを相一産認
要繼續のに者
す續財注於は
す産應け其

An heir who accepts conditionally must in continuing the management of the property of the succession exercise the same care as in the case of his, or her, own† property.

十第十第十第
條六六五六
第百條百條百
一五、四、四

The provisions of Articles 645 and 646, those of the first and second clauses of Article 650, and those

* Acceptance "*sous bénéfice d'inventaire*."

† See Note on page 121.

of the second and third clauses of Article 1021, extend to cases coming under the preceding clauses.

準の第第項
用規二第
す合定項二二
には第十項
之前三一及
な項項條ひ

1029.

條九十二千第

An heir who accepts conditionally must, within five days of his, or her, acceptance, by public notice inform all the creditors of the succession, and legatees, of the fact, and call upon them to send in their claims within a fixed period. This period cannot be less than two months.

期すひ者五限
間へに日定
はき定對内承
二旨のしに認
今を期限一者
月を公間定切は
なすに認相定
下る其な續承
るこ請爲償認
こさ求し權な
なをのた者爲
得要申る及し
すす出こひた
但なさ受る
其爲及遺後

The provisions of the second and third clauses of Article 79 extend to cases coming under the preceding clause.

準規定第第第
用合は三二七
すに前項項十
之項の及九
な規ひ條

1030.

條十三千第

An heir who accepts conditionally may refuse to satisfy the claims of creditors of the succession, and legatees, before the expiration of the period mentioned in the first clause of the preceding Article.

なて及前第限
得辨ひに一定
濟受は項承
な遺相の認
拒者續期者
むに償間は
こ對權滿前
さし者了條

1031.

條一十三千第

After the expiration of the period mentioned in the first clause of Article 1029 an heir who accepts conditionally must satisfy out of the property of the

其規定第第第
期財承了一千
間產認の項二
内な者後の十
に以はは期九
申て相限間條

條二十三第

條三十三千第

條四十三千第

If it is considered necessary to sell the property of the succession in order to satisfy the claims against it, in accordance with the provisions of the three

preceding Articles, the heir who accepts conditionally must sell it by auction. But he may pay the value of the whole, or a part, of the property as assessed by an appraiser selected by a Court of law, and stop the sale by auction.

承認者は之を競賣に付する
ことを要す但裁判所に於て
選任したる鑑定人の評價に
從ひ相續財産の全部又は一
部の價額を辨濟して其競賣
を止むることを得

1035.

第千三百五十一條

A creditor of the succession, or a legatee, may at his own expense take part in the sale by auction, or appraisement, of the property of the succession. In these cases the provisions of the second clause of Article 260 shall be applied.

相續債權者及び受遺者は、自己の費用を以て相續財産の競賣又は鑑定に参加することを、得此場合に於ては第二百六十條第二項の規定を準用す。

1036.

條六十三千第

Should an heir who accepts conditionally neglect to give the public or special notice mentioned in Article 1029, or should he be unable to pay other creditors, or legatees, owing to his having paid certain creditors or legatees within the period determined in accordance with the provisions of that Article, he is bound to give compensation for any loss thereby sustained. It is the same if he satisfies any claim in contravention of the provisions of Articles 1031-3, inclusive.

[illegible]

in 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 2680, 2681, 2682, 2683,

債權遠けり前
な者者たて項
妨又はる不の
けは對債當規
す受す權に定
這る者務は
者他又濟情
ののほなな
求債受受知

The provisions of the preceding clause do not preclude the other creditors, or legatees, from claiming re-imbursement from a creditor, or legatee, who, knowing the circumstances, improperly receives payment of his claim.

之場は四第
な合前條七
適用に二の百
す亦の定十

The provisions of Article 724 also apply to cases coming under the two preceding Articles.

條七十三千第

1037.

有な財限出第
す得産定て千
る但に承さ二
者相付認り十
は續て者し九
此財のに債條
限産み知債第
にに其れ者一
在付權さ及項
らさ利り受の
す特なし這期
別行者者間
擔ふはに内
係こ殘しに
なと餘て申

Creditors and legatees who fail to send in their claims within the period mentioned in the first clause of Article 1029, and who are unknown as such to an heir who accepts conditionally, can only exercise their rights in respect of such property as may be left over. But this rule does not apply to a person who holds special security.

節三第

SECTION III.

棄權

RENUNCIATION.

條八十三千第

1038.

すす總る爲相
る列者さ續
こ所は人の
さに其さ機
な申言欲
要通をすな

A person who wishes to renounce a succession must state the fact to a Court of law.

1039.

條九十三千第

Renunciation of a succession takes effect retrospectively from the date of commencement of the succession.

力遡開拋
なり始棄
生てのは
す其時相
效に續

If in cases where there are several heirs to property one of the heirs renounces the succession, his share of the succession reverts to the other heirs in proportion to their shares of the succession.

應分た一あ數
しはる人る人
て他さか場の
之のき拋合遺
に相は棄に産
歸續其な於相
屬分相爲て續
すに續し其人

1040.

條十四千第

A person who has renounced a succession must continue the management of the property with the same care as he exercises in the management of his own property until such time as the person who becomes heir through his renunciation is able to undertake the management of the property of the succession.

理さなを棄相
な同得相に續
繼一る續因の
續のま財り拋
す注て産て棄
る意自の相な
ふな已管續爲
さ以の理人し
なて財をさた
要其産始爲る
す財にむり者
産於るたは
のけこる其
管るさ者拋

The provisions of Articles 645 and 646, those of the first and second clauses of Article 650, and those of the second and third clauses of Article 1021, extend to cases coming under the preceding clause.

場第ひ十百第
合三第條四六
に項千第十百
之の二一六四
規十項條十
準定一、五
用は條第第條
す前第二六
項二項百第
の項及五六

章四第

CHAPTER IV.

離の財
分産

SEPARATION OF PROPERTY.

條一十四千第

1041.

の満裁中の相
有の所りも時續
財後に相り價
産と請續三者
混もす産月又
合相るな内は
せ續分に違
さる財離相者
産かぜ續は
間、得ん人相
亦相其この續
同續期と財開
し人間を産始

A creditor of the succession, or a legatee, may within a period of three months from the date of commencement of the succession apply to a Court of law for the separation of the property of the succession from the property of the heir. The same course may be followed even after the expiration of the period in question so long as the property of the succession is not mixed up with the heir's own* property.

期入命他し裁
間の令のた判
内申あり相る所
はなり續さか
二爲た債きは前
个する者其の
へきと及請求
下旨をひ受に
るを公違爲因
さ告定者しり
かずのにたて
得す期對る財
す間し者はの
こ内財は分
さに産五分
なを産分日繼
す當離内を
但加にの命

If in consequence of the application mentioned in the preceding clause a Court of law issues an order for the separation of the property, the applicant must within five days by public notice inform the other creditors of the succession, and legatees, of the fact, and call upon them to give notice within a fixed period of participation in the distribution of the property. The period in question cannot be less than two months.

* See Note on page 121.

1042.

條二十四千第

A person who has applied for the separation of property, and a person who has in accordance with the provisions of the second clause of the preceding Article given notice of participation in the distribution of property, have the right to receive payment of their claims before creditors of the heir.

濟相し依者財
か續たり及産
受人るてひ分
くの者配前離
價は當條の
權相加第請
者續入二求
に財の項を
先産申の爲
ちに出親し
て付な定た
辨き爲にる

1043.

條三十四千第

If an application for the separation of property is made, a Court of law may order the necessary steps to be taken for the management of the property of the succession.

命必産裁あ産
す要の判り財
るな管所た分
こる理はる離
さ處に相さの
な分付續き請
得なき財は求

The provisions of Articles 27-9, inclusive, extend to cases where a manager is selected by a Court of law.

準十十合を裁
用九七に選判
す條條於在所
の乃てしか
規至はた管
定第第る理
な二二場人

1044.

條四十四千第

Even after an heir has accepted the succession unconditionally, if an application for the separation of the property is made, he must thenceforth manage the property of the succession with the same care as his own* property. But cases where a manager is

てけは離し相
相る爾のた續
續さ後請る人
財同其求後は
産一固あさ單
の有り離純
管注財たも承
理意産る財認
ななにさ産を
爲以於き分爲

* See Note on page 121.

すは任て但す selected by a Court of law do not come under this
此し管裁こ rule.
限た理判さ
にる人所な
在さなに要
らき選於す

に規條及至第 The provisions of Articles 645-7, inclusive, and
之定一ひ第六 those of the first and second clauses of Article 650,
なほ項第六百
準前、六百四
用項第百四十
すの二五十五
場項十七條
合の條條乃

條五十四千第

1045.

る第さ登動財 In the case of immoveables a separation of pro-
こ三れば産産 perty cannot, unless it is registered, be set up against
さ者はなにの
な之を付分
得對をすて離 a third person.
す抗以にはは
すて非其不

條六十四千第

1046.

用に離は條第 The provisions of Article 304 extend to cases of
す之の財の三
な場産規百 separation of property.
準合分定四

條七十四千第

1047.

こに續の條相 An heir may refuse to pay the claims of creditors
さ對債期第續 of the succession and legatees before the expiration of
なし權間一人
得て者滿項は
辨及了及第 the period named in the first and second clauses of
濟ひ前ひ千
な受に第四 Article 1041.
拒違は二十
む者相項一

ての第者り財 If an application for the separation of property
財後二はた産 is made, the heir must after the expiration of
産相項第る分
分續の千さ離
離財期四きの
の産間十は請
請を滿一相求
求以了條續あ

have applied for the separation of the property, or who have given notice of participation in the distribution of the property, in proportion to the amount of each claim. But the rights of a creditor whose claim has precedence cannot be injured.

すなを其た又
る有爲償るは
こすこの債償配
さるこの債當
な債さ割者加
得債を合及入
す者要にひの
のす應受申
債出し違出
利優て者を
を先辨に爲
害債濟各し

The provisions of Articles 1032-6, inclusive, extend to cases coming under the preceding clause.

なの規三條第
準場定十乃千
用合は六至三
すに前條第十
之項の千二

1048.

條八十四千第

Persons who have applied for the separation of property, and those who have given notice of participation in the distribution of property, can only exercise their rights in respect of the heir's own* property in cases where they are unable to receive full satisfaction of their claims out of the property of the succession. In such cases creditors of an heir may receive payment of their claims before them.

にな相のの財
先得續辦申産
ち此人濟出分
て場のなを離
辨合固受爲の
濟に有くし請
な於財たる求
受て産こるを
くはにさ者爲
相付能はし
續きは相た
こ人其さ續者
その債リ財其
な得債利し産及
債を場をひ
者行合以配
はふにて當
其こ限全加
者さり部入

1049.

條九十四千第

An heir may by satisfying the claim of a creditor of the succession, or of a legatee, out of his own* property, arrest an application for separation of the property, or cause its validity to be extinguished. But

しに辨者産相
て相濟若を續
財當なく以人
産の爲はては
分擔し受相其
離保又違續固
のなは者債有
請供之に權財

* See Note on page 121.

るなり相消求 this rule does not apply to cases where a creditor
 と辭て續減な of the heir objects to to this course being followed,
 き明損人せ防 of the heir objects to to this course being followed,
 はし害のし止 proving that he will suffer loss thereby.
 此てな備むし
 限異受償る又
 議く者みは
 に在なへかこ其
 ら逃き之な効
 すへこに得力
 たこ因由な

條十五千第

1050.

請其財續す相 So long as an heir is able to accept conditionally,
 求償産財續 or so long as the property of the succession and the
 な権さ産さ人 heir's own* property are not mixed up, his creditors
 爲者混ひかか may apply for the separation of the property.
 すは合相得限
 こ財せ續る定
 な産さ人間承
 を分るの又認
 得離間固はな
 のは有相爲

な定項千乃第 The provisions of Article 304, those of Article
 爲めの四至百 1027, those of Articles 1029-36, inclusive, those of
 した場十第 1043-5, inclusive, and those of Article 1048
 たる合五千四 extend to cases coming under the preceding clause.
 たる公に條三 But the public notice and special notice prescribed
 債告之及十六 by Article 1029 must be given by a creditor who
 權及をひ六 applies for the separation of the property.
 者ひ準第條、第千二十七條、
 之僱用千、第千四十七條、
 を告す四第
 爲は但十千
 す財第八四
 こ産千條十
 な分二の三
 な離十規條二
 要の九定乃十
 す請條は至九
 求に前第條

* See Note on page 121.

CHAPTER V.

章五第

FAILURE OF HEIRS.

贖人相
缺の續

1051.

條一十五千第

If it is uncertain whether there is an heir, or not, the property of the succession is made a legal person.

さばはらこ相
す之相ささ續
を續ろ分人
法財さ明あ
人産きなる

1052.

條二十五千第

In cases coming under the preceding Article a Court of law must on the application of an interested party, or of a public prosecutor, select a manager.

るの求係は前
こ管に人裁條
さ理因又判の
か人りは所場
要な相檢は合
す選續事利に
任財の害於
す産請闕て

A Court of law must without delay give public notice of the appointment of a manager.

さ告選管選裁
なす任理滯判
要るな人ふ所
すこ公のくは

1053.

條三十五千第

The provisions of Articles 27-9 extend to managers of the property of a succession.

之のは九乃第
か管相條至二
準理續の第十
用人財規二七
すに産定十條

1054.

條四十五千第

A manager must, if application is made therefor by a creditor of the succession, or a legatee, report to the applicant on the condition of the property of the succession.

るのはの權管
こ情之請者理
さ況に求又人
なを相あはは
要報續る受相
す告財さ遺續
す産き者債

條五十五千第

1055.

行權と人る相
爲限看はに續
の内做存至人
效にす立りあ
力於但せたる
なて管さるこ
妨爲理りさ分
けし人しき明
すたかもは
る其の法な

In the event of its being positively ascertained that there is an heir, the legal person is regarded as never having existed. But this does not impair the validity of acts performed by the manager within the limits of his authority.

條六十五千第

1056.

てた承人理管
消る認か權理
滅時を相は人
すに爲續相の
於しの續代

The powers as agent of a manager cease when an heir appears, and accepts the succession.

要算對滯て前
すをしなは項
爲てく管の
す管相理場
こ理續人合
さの人はに
を計に運於

In cases coming under the previous clause the manager must without delay furnish the heir with an account of management.

條七十五千第

1057.

期出續至る第
間を備ら後千
は爲權さ二五
二す者る个十
个へきさ月二
月き對き内條
な旨しはに第
下を一管相二
る公定理續項
こ告の人人定
こす期はあ定
さか間遅るめ
得こ内滯みた
すこになさる
すを其く分公
要請一明告
す求切なあ
但のるり
其申相にた

If within two months after the public notice mentioned in the second clause of Article 1052 has been given the fact of there being an heir is not positively ascertained, the manager must without delay by public notice call upon all the creditors of the succession and legatees to send in their claims within a fixed period. This period cannot be less than two months.

三ひ三二九第
十第項條七
條千及第第十

The provisions of the second and third clauses of Article 79, and those of Articles 1030-37, extend to

cases coming under the preceding clause. But this rule does not apply to the proviso attached to Article 1034.

は四用の條乃
此條す場の至
限但合規第
に書第に定千
在の千之は七
ら規三を前十
す定十準項三

1058.

條八十五千第

In cases where after the expiration of the period fixed in accordance with the provisions of the first clause of the preceding Article it is still uncertain whether there is an heir or not, a Court of law must on the application of the manager, or of a public prosecutor, by public notice call upon the persons who have rights of succession, if there are any such persons, to assert their rights within a fixed period. This period cannot be less than one year.

告定入る前
さすの又こ條
なる期はさ第
得こ間檢分一
すこ内事明項
なにのな
要其請ら期
す權求さ間
但理にる満
其を因さ了
期主りきの
間張相は後
はす續裁仍
一へ人列は
年きあ所相
を旨らは續
下をは管人
る公一理あ

1059.

條九十五千第

If within the period mentioned in the preceding Article no person asserts his rights to the succession, the property of the succession reverts to the Treasury. In these cases the provisions of the second clause of Article 1056 shall be applied.

二於國なた前
項て庫きる條
のはにさ權の
規第歸き利期
定千屬はを間
な五す相主内
準十此續張に
用六場財す相
す條合産る續
第には者人

Creditors of the succession and legatees cannot exercise their rights against the Treasury.

なをしは及相
得行て國ひ續
すふ其庫受所
こ權に遺權
と利對者者

章六第

CHAPTER VI.

言遺

WILLS.

節一第

SECTION I.

則總

GENERAL RULES.

條十六千第

1060.

さ之に方に遺
なを非式定言
得爲さには
すすれ従た本
こはふる法

Wills cannot be made except in accordance with the formalities prescribed by this Code.

條一十六千第

1061.

な爲はし以満
得す遺た上十
こ言るに五
さな者達年

A person who has attained the full age of fifteen years may make a will.

條二十六千第

1062.

せにの及條第
すは規ひ、四
之定弟第條、
なは十、
適達四二第
用言條條九

The provisions of Articles 4, 9, 12 and 14 do not apply to wills.

條三十六千第

1063.

こ力に言遺
さを於を言
な有て爲者
要す其すは
する能時遺

A testator must at the time of making a will possess the requisite legal capacity.

1064.

條四十六千第

A testator may dispose of the whole, or a part, of his property by general or specific bequest. But the provisions relating to the heir's portion cannot be contravened.

遺言者は包括又は特定
の名義を以て其財産の
全部又は一部を處分す
ることを得但遺留分に
關する規定に違反する
ことを得ず

1065.

條五十六千第

The provisions of Articles 968 and 969 extend to legatees.

第九百六十九條及第九百七十條の規定は、
受遺者に之を準用す。

1066.

條六十六千第

If a ward before the account of guardianship is closed, makes a will benefiting his guardian, or the latter's consort, or lineal descendant, such will is invalid.

被後見人か後見の計算
終了前に後見人又は其
配偶者若しくは直系卑
の利益を爲るべき遺言
を爲したるときは其遺
言は無効とす

The provisions of the preceding clause do not apply in cases where a lineal blood relative, a consort, or a brother, or sister, is the guardian.

前項の規定は、直系血族、配偶者又は兄弟姉妹の場合に、之を適用せず。

節二第

SECTION II.

式方の言遺

FORMALITIES OF WILLS.

款一第

SUB-SECTION I.

式方通普

ORDINARY FORMALITIES.

條七十六千第

1067.

合にに正遺
は依を依證言
此る要り書は
限こすて又自
にさ但之は筆
在な特を認證
ら許別爲密書
すす方す證
場式こ書公

A will must be made either by holographic deed, notarial deed, or secret deed. But cases where special formalities are authorized do not come under this rule.

條八十六千第

1068.

を之及言遺自
要にひ者言筆
す捺氏其な證
印名全爲書
すな文すに
る自、に依
こ書日はり
さし附遺て

In making a will by holographic deed a testator must write the whole of the will, the date and his name and surname himself, and affix his seal thereto.

非其附指他自
さ變記示の筆
れ更しし變証
は更て之更証
其場特は書中
效所に變言の
なしに之更言挿
捺しにし其入
印署た其割
す名場割除
るし旨所除
に且をを其

An insertion, erasure, or other alteration in a holographic deed is not valid unless the testator adds an endorsement specifying the place altered, and stating that the alteration has been made, and signs this endorsement, and affixes his seal to the place altered.

1069.

條九十六千第

In making a will by notarial deed the following formalities must be complied with:—

要從左を依公
すふの爲り正
こ方すて證
さ式に遺書
なには言に

- i. The presence of two or more witnesses.

る立以人(二)
こ會上二(一)
さあの人證
- ii. A verbal statement by the testator to the notary of the purport of the will.

こ口公の者(二)
さ授證越(一)
す人旨遺達
るにを言言
- iii. The writing down by the notary of the verbal statement of the testator, and the reading by him of the same to the testator and witnesses.

人之者(二)
になの(三)
證遺口公證
聞言述證
か者な人
す及筆か
こひ記遺
さ證し言
- iv. The affixing by the testator and the witnesses of their signatures and seals to what the notary has written after they have accepted it as correct. But in cases where the testator cannot sign his name the notary may sign it for him, giving the reason for doing so.

署於(四)
名に署なる
は公署名(三)
代する名遺
ふ証人捺言
る人捺者
こ証印及
さ事す承
な其能認
得はこし人
附る由こ
記ななる
し場はさ
合遺後
言各
各の
者自正
- v. The addition of an endorsement by the notary to the effect that the deed has been drawn up in conformity with the formalities mentioned in the four preceding sub-headings, and the affixing by him of his signature and seal thereto.

し作號(五)
てりに
之た揚公
にるけ證
署もた人
名のる
捺方其
印る式證
す旨に書
るを從は
こ附ひ前
さ記て四

要從左を依
すふの爲り
こ方すて證
さ式に遺書
なには言に

In making a will by secret deed the following formalities must be complied with:—

こ捺書者(一)
さ印にか(二)
す署其遺(三)
る名證言(四)

i. The affixing by the testator of his signature and seal to the deed.

こ之の證其(一)
さ印書證(二)
封草に書遺(三)
印を用を言(四)
す以ぬ封者(五)
るてたしか(六)

ii. The placing of the deed by the testator in a cover, and the sealing of the cover by him with the seal used for the deed.

者て人(一)
の自二(二)
氏己人遺(三)
名の以言(四)
住遺上者(五)
所言のか(六)
を書前公(七)
申なに證(八)
述る封人(九)
する書一(十)
る及を人(十一)
こひ提及(十二)
さ其出ひ(十三)
筆し證(十四)

iii. The production by him of the deed enclosed in the sealed cover before a notary and two or more witnesses, and his statement to them that the will in question is his, accompanied by a statement as to the name, surname, and domicile of the person by whom it was drawn up.

さひ紙日(一)
證に附(二)
人肥及公(三)
共載ひ證(四)
にし遺人(五)
署た言か(六)
名者其(七)
捺後の證(八)
印遺申書(九)
す言述出(十)
る者な出(十一)
こ及封の(十二)

iv. The endorsement by the notary on the cover containing the deed of the date of its production, and of the testator's verbal statement, and the affixing by him and by the testator and witnesses of their signatures and seals thereto.

準遺證規條第
用言書定第千
すには二六
之依證項十
なる密の八

The provisions of the second clause of Article 1068 extend to wills made by secret deed.

1071.

條一十七千第

Even if in a will made by secret deed there is a defect in the observance of the formalities prescribed by the preceding Article, it will still be valid as a will made by holographic deed, provided that the formalities mentioned in Article 1068 have been duly observed.

を書式に秘
有にあら定密
す具るめ證
依るもた書
る備するに
遺第千方使
言る六式に
さき十八遺
しは八缺言
ては八條は
其自條の
效筆の
力證方も條

1072.

條二十七千第

In cases where a person who is unable to speak makes a will by secret deed the testator must, in place of the verbal statement mentioned in sub-heading iii. of the first clause of Article 1070, write with his own hand, in the presence of a notary and two or more witnesses, an endorsement on the sealed cover to the effect that the deed in question is his will, and stating the name, surname, and domicile of the person by whom it was drawn up.

三所已には言
號の公依語
の封遺證り
申書言人て
述に書及遺
に自なる言
代書旨人爲
ふて並のす
る第に前場
こさ其に合
な千筆於さ
要十者る
す條其て
第氏證は秘
一名書遠密
項は言證
第住自者書

The notary must, in place of an endorsement on the sealed cover of the testator's verbal statement, make thereon an endorsement stating that the formalities prescribed by the preceding clause have been observed.

こてたに公
さ申る定證
を述旨め人
を要のなは
す記封たる
載紙方遺
に式言
代記を
ふ載前
るしみ項

1073.

條三十七千第

For the making of a will when he has recovered his faculties by a person who has been interdicted

す這時復の禁
に言にし本治
はを於た心産
醫爲てるに者

なわ上師 from the management of his property the presence of
要るの二 two or more doctors is necessary.
すこ立人
こ會以

署爲旨す遺 The doctors present at the making of the will
名すこを時言 must make an endorsement upon it stating that the
場と遠にに立
捺合を言於會 testator was not at the time of making his will in a
印に要書て會 testator was not at the time of making his will in a
を於すに心た condition of mental derangement, and affix thereto
爲て但附神者 their signatures and seals. But in cases where the
すは秘記裏醫 their signatures and seals. But in cases where the
こ其密し失師 will is made by secret deed the endorsement in
こ封證てのは question, with the signatures and seals attached, must
な紙書之狀遺 be made on the sealed cover.
要にに況言
す右依署に者
のり名在い
記てら遺言
載遠捺さ言
及言印りな
ひなすし爲

條四十七千第

1074.

こ立のる左 The following persons cannot be witnesses to, or
こ會證者に be present at, the making of a will:—
な人入は揭
得た又違け
するは言た

者年成未(一)

i A minor.

者禁及治(二)
治ひ産
産準者禁

ii. A person interdicted from the management of his property, or a person treated as such.

止權(三)
公者
備及剥奪
者ひ奪公
停公

iii. A person who has been deprived of his public rights, or one whose public rights have been suspended.

者配者遺(四)
偶の言

iv. The testator's consort.

系者ひ受相(五)
血其遺續
族に配者人推
直偶及人定

v. A presumptive* heir, or a legatee, or their consorts, or lineal blood relatives.

* See Note on page 100.

- vi. A person who belongs to the same family as the notary, a lineal blood relative of the notary, his clerk, or his servant.

人並人る家
にの者な
筆直及同公
生系ひし證
血公く人
屬族證す

1075.

條五十七第

Two or more persons cannot make a will by the same deed.

さなを一人違
な爲以の以言
得すて證上は
すこ之書同ニ

SUB-SECTION II.

款二第

SPECIAL FORMALITIES.

式方別特

1076.

條六十千第

If a person who is at the point of death owing to sickness, or any other cause, wishes to make a will, he may in the presence of three or more witnesses make a verbal declaration of its purport to one of them. In these cases the person who receives this verbal declaration must write it down, and read it to the testator and the other witnesses, and after all of the witnesses have accepted what has been written as correct, they must affix their signatures and seals thereto.

な違得以違病
る言此て言病
こ者獨其を其
と及合一爲他
をひに人さの
承他於にん事
認のて違さ由
し證は言欲に
た人其のす因
るに口經るり
後讀授旨さて死
之聞をなき死
にか受口は亡
署せけ授證の
名各たし人危
證るて三急
捺人者之人に
印其之を以迫
す筆を爲上り
る記筆すのた
なの記み立る
要正しと會者
す確てなをひ

前二項の
請利する
非害日違
さ求害日違
れし關内言
はて係には
其其人證違
效確よ人言
な認りのの
しを裁一日
得判人よ爲
る所又りし

之得出違
ななるて言
得確にた者
す認非るのは
すさ心眞違
るれ證意言
こはなにか

A will made in accordance with the provisions of the preceding clause is not valid unless within twenty days after the date on which it is made one of the witnesses, or an interested party, applies for and obtains its certification by a Court of law.

A Court of law cannot certify a will unless it obtains proof that the will represents the true intentions of the testator.

條七十七千第

1077.

を上官を傳
作の一場以
る立人病
み會及に交
さなひ在通
なを證るな
得て人者
違一は斷政
言人醫し處
書以察た分

A person in a place where communications are cut off by administrative action on account of infectious disease may make a will in the presence of a police officer, and one or more witnesses.

條八十七千第

1078.

なさし會相
以ろ將を當
てさ校以官
之き及て中
にはひ違人
代準相言及
ふ士當書ひ
こ官官を證
さ又々作人
こと其る二
とト場人
得士所と以
官にな上校
一在得の又
入ら若立は

A *gun-jin*,* or *gun-zoku*,* who is on active service may make a will in the presence of a combatant, or a non-combatant officer, and two or more witnesses. If there is no combatant, or non-combatant officer, in the place in question, a warrant officer, or an ordinary non-commissioned officer, or petty officer, may take his place.

* See Note on page 71.

If a *gun-jin*,* or *gun-zoku*,* who is on active service is in hospital on account of sickness, or wounds, a doctor of the hospital may take the place of the combatant, or non-combatant officer, mentioned in the preceding clause.

にけの病か從
代た醫院疾軍
るる師に病中
こ將を在又の
ま校以るは軍
な又てき傷人
得は前き病又
相項はのは
當に其爲軍
官揚院め屬

1079.

條九十七千第

A *gun-jin*,* or *gun-zoku*,* who while on active service is at the point of death on account of sickness, or wounds, may make a verbal will in the presence of two or more witnesses.

這のひ危の從
言立軍急理軍
を會屬に由中
爲なは迫に疾
す以證り因病
て人たり、
ま口二るて傷
な頭人軍死癡
得に以人亡其
て上及の他

A will made in accordance with the provisions of the preceding clause is not valid unless a witness writes down its purport, and the signatures and seals of the witnesses are affixed, and unless one of the witnesses, or an interested party, applies without delay to the *ri-ji*† or *shiu-ri*† and obtains its certification.

には利害言前
非主害名は項
さ理關、證の
れに係捺人規
は請人印其定
其求よし趣に
效とり且旨從
なて遲證をひ
し其滯人筆て
確なの記爲
認く一しし
る理人てた
得事又之る
る又はに違

The provisions of the third clause of Article 1076 extend to cases coming under the preceding clause.

には第第
之前三千
を項七
準のの十
用場規六
す合定條

* See Note on page 71.

† *Ri-ji* and *shiu-ri* are the terms applied to officials of the judicial departments of the army and navy respectively.

條十八千第

1080.

以一の當所艦
て入船官屬船
遠及舶一の中
官ひに入船に
書證於及船在
を入てひにる
作二に證於者
る入船入ては
こ以長二は軍
さ上又人將艦
なの以校及
揚立事上又ひ
會務其は海
な員他相軍

A person on board of a naval or other vessel may make his will in the presence of a combatant, or non-combatant officer, and two or more witnesses, if the vessel in question is a man of war, or a vessel belonging to the navy, and, in the case of other vessels, in the presence of the master, or purser, and two or more witnesses.

る一き船校前
こ人ほ中又項
さな準にはの
を以士在相場
得て官あ當合
之又ら官に
にはさや於
代下る其て
ふ士と艦將

If in a case coming under the preceding clause there is no combatant, or non-combatant officer, on board of the man of war, or vessel, in question, a warrant officer, or an ordinary petty officer, may take his place.

條一十八千第

1081.

求て者の難第
すはの所の千
る其遺屬場七
こ確言に台十
と認を非に九
むは爲さ之條
案之しるなの
すなた船準規
裁る舶用定
判場中すは
所合に但艦
にに在海船
請於る軍遣

The provisions of Article 1079 extend to cases of the shipwreck of naval or other vessels. But in cases where a will is made by a person on board of a vessel which does not belong to the navy application for its certification must be made to a Court of law.

條二十八千第

1082.

の千條千七第
場入遺七條千
合十言十、七
に條第八第十

In cases coming under Articles 1077, 1078, and 1080 the testator, the writer, the persons present and

the witnesses must all affix their signatures and seals to the will.

此名自及筆於
さ違ひ者て
な捺言證は
要すには會言
する署各人者

1083.

條三十八千第

If in cases coming under Articles 1077-8, inclusive, there is a person who cannot affix his signature or seal, a person present, or a witness, must make an endorsement on the will stating the reason.

な會は名十第
附人さ又一千
記又は條七
すは者捺の十
る證あ印場七
こ人する合條
こはさるに乃
な其きこ於至
要事はさて千
す由立能習八

1084.

條四十八千第

The provisions of the second clause of Article 1068, and those of Articles 1073-75, inclusive, extend to wills made in accordance with the provisions of the eight preceding Articles.

にの條條項第
之規の乃及千
率に定規至ひ六
用依は千千八
する前七十七條
違八十八千第
言條五三二

1085.

條五十八千第

A will made in accordance with the provisions of the preceding nine Articles is not valid if the testator lives for six months after he has become able to make a will in accordance with the usual formalities.

さ時す通し前
きよ方た九
はりさ式る條
其六かに違の
效个得依言規
な月るりは定
し間にて違に
生至違言依
存り言者り
すたなわて
るる爲替爲

1086.

條六十八千第

If a Japanese who is in a place where there is a Japanese Consul wishes to make a will by notarial,

證人在す事日
書かるるの本
又公日地駐の
は正本に在領

之のささり祕 or secret, deed, the Consul shall exercise the duties
 な職きんて密 of a notary.
 行務はと遺證
 ふは公欲言書
 領證すなに
 事入る爲依

節三第

SECTION III.

力效の言遺

EFFECT OF WILLS.

條七十八千第

1087.

なり亡言遺 A will takes effect from the date of the testator's
 生其の者言 death.
 す效時ハは
 力よ死遺

時に後條し遺 In cases where a condition precedent is attached
 よ遺に件た言 to a will, if the condition in question is fulfilled after
 り言成るに its fulfillment, the will takes effect from the
 其は就遺場停 the testator's death, the will takes effect from the
 效條し言合止 date of such fulfilment.
 力件た者に條
 な成るの於件
 生就さ死てな
 すのき亡其附

條八十八千第

1088.

と棄も後言受 A legatee may at any time after the testator's
 なを遺何者遺 death renounce the legacy.
 得爲贈時の者
 すのに死は
 こ抛て亡遺

力リの者棄遺 Renunciation of a legacy takes effect retrospec-
 なて時のは贈 tively from the date of the testator's death.
 生其に死遺の
 す效過亡言抛

條九十八千第

1089.

定の入利者遺 The person whose duty it is to pay legacies, and
 め期は害其贈 the other interested parties, may fix a suitable period,
 其間相關他義
 期を當係の務

and call upon a legatee by special notice to state within that period whether he accepts, or renounces, the legacy. If the legatee does not express his intention to the person whose duty it is to pay legacies within the period named, he will be regarded as having accepted the legacy.

を意問る爲間
承思内こす内
認をにさへに
し表遺なき遺
た示認得旨贈
るせ義若をの
ものる者受承
さきに遺者又
看き對者には
倣はしか僅抛
す遺て其告棄
贈其期すな

1090.

條十九千第

If a legatee dies before accepting, or renouncing the legacy, his heir, or heirs, may within the limits of his, or their, rights of succession accept, or renounce, the legacy. But if the testator in his will expresses a special intention, the intention shall be followed.

し言承人さ受
た者認はす遺
る又自し者
さ其は己てか
き遺抛の死遺
は言棄相亡贈
其にを續しの
意別爲權た承
思段すのる認
にのこ範さ又
從意さ圍きけ
ふ思を内は抛
を得に其棄
表但於相な
示遺て續爲

1091.

條一十九千第

The acceptance and renunciation of legacies cannot be cancelled.

と取棄認遺
な消は及贈
得す之ひの
すこを抛承

The provisions of the second clause of Article 1022 extend to the acceptance and renunciation of legacies.

準抛の規條第
川棄承定第千
すに認は二二
之及遺項十
なひ第の二

1092.

條二十九千第

A general legatee has the same rights and duties as an heir to property.

有利同相者包
す義一續は括
務の人遺受
を權と産遺

條三十九千第

1093.

同付しもら受
し其さて遺
條を相者
件得富間は
の序の遺
成止擔遺
否條保贈
未件を義辦
定附請濟
の遺求者期
間贈するに
亦に對至

A legatee may, so long as the payment of the legacy is not due, call upon the person whose duty it is to pay legacies to furnish suitable security. The same course may be followed in the case of legacies to which a condition precedent is attached, so long as the condition remains unfulfilled.

條四十九千第

1094.

は意言し請受
其思者り求遺
意をか果す者
思表其實るに
示遺をこ遺
從し言取こ贈
ふに得なつ
る別す得履
さ段但る行
きの這時を

A legatee acquires the fruits of a legacy from the time when he is able to demand its payment. But if the testator expresses in his will a special intention, the intention shall be followed.

條五十九千第

1095.

用九し物の遺
す十たに死贈
九る付亡義
條さき後務
のき費遺者
規は川贈が
定第なの遺
な二出自言
準百た的者

If after the testator's death the person whose duty it is to pay legacies incurs any expenditure in connection with the thing which is the subject of the legacy, the provisions of Article 299 shall be applied.

こてを必に果
さ其超要出賣
な償に役たを
得還さばし收
なる果た取
請限實する
求度の通る
すに價常爲
る於格のめ

With regard to ordinary necessary expenditure incurred for the purpose of acquiring fruits, he may claim its re-imbursement to the extent of the value of the fruits acquired.

1096.

條六十九千第

A legacy is not valid if the legatee dies before the testator.

力と死に者遺
なき亡受の贈
生はし遺死は
せ其た者亡遺
す效るか前言

It is the same in the case of legacies to which a condition precedent is attached, if the legatee dies before the condition in question is fulfilled. But if the testator expresses in his will a special intention, the intention shall be followed.

はの但に受停
其意遺死遺止
意思言亡者條
思を者しか件
に表わした其附
従示其る條遺
ふし遺さ件贈
た言きのに
るに亦成付
さ別同就て
き段し前は

1097.

條七十九千第

If a legacy is not valid, or if it loses its validity through renunciation, the thing which the legatee would have received reverts to the heir, or heirs. But if the testator expresses in his will a special intention, the intention shall be followed.

し者したは遺
たかある抛贈
る其のさ棄か
さ遺はきに其
さ言相は因效
はに續受り力
其別人遺其な
意段に者效生
思の歸か力せ
に意屬受なき
従思すくきさ
ふな但へにさ
表遺か至き
示言りり又

1098.

條八十九千第

If the right which is the subject of a legacy does not belong to the property of the succession at the time of the testator's death, the legacy is not valid. But this rule does not apply to cases where the right in question must be considered to have been made the subject of the legacy notwithstanding the fact that it does not belong to the property of the succession.

さ之財き亡遺
認を産はの贈
む以に其時ほ
へて屬效に其
き遺せ力於目
さ贈さなて的
さきの生相た
は目こせ續る
此限さあ但產利
に爲る其にか
在しに權屬遺
らた拘利せ言
するはかさ者
もら相るの
のす續さ死

條九十九千第

1099.

言すこし規相
にるさて定續
別さ能に之財
段きはを依産
のはさ受に
意其る遺て
思價者有せ
な格又に効
表示は移なる
示辨之轉る
し債なすさ
たる取るき
た得義は目
るこする遺的
さきに贈と
はをに責義
其要付ふ務
意思き若者
思但過しは
に遺分其か
從言の權前
ふ者費取利
ハ用得但
其なす取書
遺要る得の

In cases where a legacy, the subject of which is a right which does not belong to the property of the succession, is valid in accordance with the proviso attached to the preceding Article, the person whose duty it is to pay legacies must acquire the right and transfer it to the legatee. If he is unable to acquire it, or if its acquisition would entail excessive expense, he must pay its value. But if the testator expresses in his will a special intention, the intention shall be followed.

條百千第

1100

同者け於目不
しはたの特
く之受定
擔に遺爲物
保對さ者し
のしはた以
責て遺追る
に賣贈奪遺
任主義合贈
すさ務受に
なてはさ物
要之根きに
すに統は環
代な遺統場
ふき贈あ合
る物義に
こな務た於
と以者るて

In cases where a thing not specified is made the subject of a legacy, if the legatee is subsequently deprived of his legacy, the person whose duty it is to pay legacies has the same responsibility of guarantee towards him as a seller.

If in a case coming under the preceding clause there is a defect in the thing in question, the person whose duty it is to pay legacies must replace it by a thing which has no defect.

條一百千第

1101.

の的の遺者遺
滅物買贈い言

If the testator has a right against a third person

in consequence of the destruction, alteration, or loss of possession of a thing which is the subject of a legacy, it is presumed that the right in question has been made the subject of the legacy.

る以なし裏失
て有て失若
の遺す償にく
と贈る金因は
推のさなり變
定目き請て遺
す的其求第は
さばす三其
爲權る者占
し利權に有
たを利對の

If, in cases where the thing which is the subject of a legacy is attached to, or mixed up with, some other thing, the testator acquires, in accordance with the provisions of Articles 243-5, inclusive, a joint right in the composite thing, or in the things mixed up so that they cannot be distinguished one from the other, it is presumed that this joint right has been made the subject of the legacy.

のり又乃た遺
目たは至る贈
的混第場の
とさ和二合目
爲さ物百に的
しはの四於物
た其單十てか
る全獨五遺他
も部所條言の
のの有の者物
と所者規いさ
推有又定第附
權はに二合
すを共依百又
以有り四に
て者合十混
遺と成三和
贈爲物條し

1102.

條二百千第

If the thing, or right, which is the subject of a legacy is at the time of the testator's death subject to the right of a third person, the legatee cannot call upon the person whose duty it is to pay legacies to extinguish the right in question. But cases where the testator expresses in his will a contrary intention do not come under this rule.

思と權る死遺
なを利と亡贈
表得なきのの
示す消は時目
し但滅受に的
た遺せ遺於た
る言し者てる
と者むは第物
さかへき遺三又
は其旨贈者は
此遺を務權利
にに請者利の
在反求にの遺
ら對す對目言
すのるし的者
意こ其たの

1103.

條三百千第

In cases where a claim is made the subject of a

さ目贈てを償
爲的の遺以權

もてにたかし
の遺存する辨
と贈る物済
推のるかな
定目さ向受合
的きほけに
さは相且於
爲其續其て
し物財受遺
たを産取言
る以中り者

legacy, if the testator subsequently receives payment of his claim, and the thing received by him still forms part of the property of the succession, it is presumed that the thing in question has been made the subject of the legacy.

爲額錢其に金
しなな償付錢
た以さ權くな
るてさ額は目
も遺きに相的
の贈さ相續さ
さの雖當財す
推目もす産る
定的其る中償
すさ金に權

In cases where the subject of the claim was money, even if the property of the succession does not contain money corresponding to the amount of the claim, it is presumed that this amount has been made the subject of the legacy.

條四百千第

1104.

責たに償る負
にる於煩者擔
任義務には附
す務の超過遺
をみに贈る
履其さのを
行負る目受
す擔限的け
るし度の大

A person who receives a legacy which is subject to a charge is responsible for the performance of the duty with which he is charged to the extent only of the value of the legacy.

さにこくた受
き別とへる遺
は段なきさ者
其の得者さか
声意但自に遺
思遺ら負贈
に言受擔の
従表者遺の拋
ふ示か者利棄
し其さ益を
た遺爲を爲
る言る受し

If the legatee renounces the legacy, the person who was to benefit by the charge may become the legatee. But if the testator expresses in his will a special intention, the intention shall be followed.

條五百千第

1105.

は定相の贈負
遺承續償の擔
留認の額目附
分又限か的遺

If the value of a legacy which is subject to a charge is reduced by reason of a conditional accept-

ance of succession, or by reason of an action for recovery of the heir's portion, the legatee is released from the duty with which he is charged in proportion to the extent of the reduction. But if the testator expresses a special intention in his will, the intention shall be followed.

に務割る回
き別な合さ復
は段免にきの
其のる應は訴
意意但し受に
思思違て違因
にを言真者り
従表者擲はて
ふ示かし其減
した其た減少
た違る少し
る言義のた

SECTION IV.

節第四

EXECUTION OF WILLS.

行執の言遺

1106.

條六百千第

The custodian of a will must after he becomes aware of the commencement of the succession without delay produce the will before a Court of law, and apply for probate. In cases where there is no custodian the same course must be followed after the will is discovered by the heir, or heirs.

言者す判を遺
書ふる所知言
なきこにり書
なきこにり書
發場を提たの
見合を出る保
しに要し後管
た於て遅者
るて遺其滞は
後相言檢な相
亦續者認く續
同者のな之の
しか保請を聞
遺管求裁始

The provisions of the preceding clause are not applied in cases where a will is made by notarial deed.

用には前
せは依公項
す之る正の
な遺證遺
適言書言

Sealed wills cannot be opened except in a Court of law in the presence of the heirs, or their representatives.

す非立人裁封
るさ會又判印
これなは所あ
さは以其にる
な之て代於遺
得なす理て言
す開る者相書
封にの續

條七百千第

1107.

下封し承を前
のな又認提の
通爲はな出條
料し裁經す規
にた列する定
處る所しこに
せ者外て依り
らばに違ふて
る二於言怠遺
百てな言言
圓其執、言
以開行其書

A person who neglects to produce a will before a Court of law, who executes a will without obtaining probate, or who opens a sealed will elsewhere than in a Court of law, shall be punished by a fine not exceeding two hundred *yen*.

條八百千第

1108.

さ三遺て遺
な者又言一言
得には執人者
委其行又は
託指者ば遺
す定を敢言
るを指人な
こ第定の以

A testator may by will appoint one or several executors, or depute a third person to do so.

な人なは委遺
要に爲選託言
す通し滞を執
知てな受行
す之くけ者
るな其た指
こ相指る定
さ續定者の

A person who has been deputed to appoint the executor, or executors, of a will must make the appointment without delay, and inform the heir, or heirs, of the fact.

こな委託遺
さ相託を言
な續はを受執
要人選辭け行
すに滞せたる
通なんる指
知くさ者定
す其すかの
る旨る其委

If a person who is deputed to appoint the executor, or executors, of a will wishes to decline to accept the duty, he must, without delay, inform the heir, or heirs, of the fact.

條九百千第

1109.

す行ちた就遺
ふに職言
こ其さな執
さ任き承行
な務は諾者
要を直しか

If the executor of a will accepts the appointment, he must enter upon his duties at once.

1110.

條十百千第

An heir, or any other interested party, may fix a suitable period, and call upon the executor to state within that period whether he accepts the appointment, or not. If he does not give a definite answer within the period named, he will be regarded as having accepted the appointment.

き内すやな相
はにるな定續
就相こ確め人
職續こ答其其
な人なす期他
承に得へ間の
諾對若き内利
したて遺を就害
る確言遺職係
も答執言を人
のさ者行執承は
看さい其るの
做する期催や
さ間告否間

1111.

條一十百千第

Persons without legal capacity, and bankrupts, cannot become executors of wills.

得る執者及無
すこ行はひ能
さ者遺破力
な言産者

1112.

條二十百千第

Should there be no executor, or should circumstances result in there being no executor,* a Court of law may select an executor on the application of an interested party.

任請所りき遺
す求はた父言
るに利るは執
こ困害さ之行
こり關きさ者
な之係はさなき
得な人裁にき
選の判至こ

An executor who is selected in accordance with the provisions of the preceding clause cannot, except for just reasons, refuse to accept the appointment.

拒非常違り前
むさの言て項
これ理執選の
さは由行任規
な就あ者し定
得職るはたに
すなに正る依

* Namely through death of executor, or his incapacity, or refusal, to serve.

條三十百千第

1113.

要交ての滞遺
す付之目な言
すな録く執
る相を相行
こ續調續者
さ人製財は
なにし産運

An executor must without delay prepare a list of the property of the succession, and deliver it to the heir, or heirs.

むなを立の遺
るし調會請言
こて製を求執
さ之し以あ行
なを又てる者
要調は財さば
す製公産き相
せ證目は續
し人録其人

An executor must, if an application to that effect is made by the heir, or heirs, prepare the list of the property in his, or their, presence, or cause a notary to prepare it.

條四十百十第

1114.

義行必他續遺
務爲要遺財言
なな言産執
有爲るのの行
すす一執管者
權切行理は
利のに其相

An executor has the rights and duties connected with the management of the property of the succession, and with the performance of all other acts necessary for the execution of the will.

な遺五七乃第
準言十條至六
用執條及第百
す行のひ六四
者規第百十
に定六四四
之は百十條

The provisions of Articles 644-7, inclusive, and those of Article 650, extend to executors of wills.

條五十百千第

1115.

爲なしは合遺
す妨其相に言
こく他續於執
さへ遺財て行
なき言産は者
得行のな相あ
す爲執處續る
な行分人湯

In cases where there is an executor an heir cannot deal with the property of the succession, or perform any other act which will interfere with the execution of the will.

條六十百千第

1116.

特言は規條前
定の遺定の三

In cases where a will relates to specified property

the provisions of the three preceding clauses are applied only in regard to that property.

之に於ける財
な付は場産
適て其合に
用の財に關
すみ産於す

1117.

條七十百千第

An executor is regarded as the representative of the heir, or heirs.

看代相者遺
做理續は言
す人人之執
そのを行

1118.

條八十百千第

An executor cannot, except for unavoidable reasons, because his duties to be exercised by a third person. But if the testator expresses a contrary intention in his will, this rule does not apply.

し其む三違
た違る者言
る言を専執
さにさし由
き反てあ者
は對得其は
此のす任に
限意但務非
に思違をさ
在な言行れ
ら表者はは
す示かし第
得

In cases where an executor causes, in accordance with the proviso attached to the preceding clause, a third person to exercise his duties, he incurs towards the heir, or heirs, the responsibility mentioned in Article 105.

たにるしの違
る對場て規
貴し合其定
任第に任に
な百於務依
負五てなり
ふ條は行第
に相は三項
定續し者但
め人むを書

1119.

條九十百千第

In cases where there are several executors of a will the performance of their duties is decided by a majority. But if the testator expresses a special intention in his will, the intention shall be followed.

はの但は合數
其意違過に
思言半ての
思を者數於
に表をは言
從示其以執
ふし違て任
た言之務者
るにののあ
さ別決執る
き段す行場

存には各
と行拘前達
な爲は項言
得ならの執
爲す規行
す保定者

Each of the executors may, notwithstanding the provisions of the preceding clause, perform acts for the preservation of property.

條十二百千第

1120.

くに定違違
る限め言言
こりたに執
さ之る執行
ななと酬者
得受きなは

An executor may only receive remuneration when the amount of the remuneration is specified in the will.

るり判し言裁
こ其所た執判
な報はる行所
得な酬事さ者に
定を情きな於
むには選て
依裁任違

If an executor is selected by a Court of law, the Court may determine the remuneration in accordance with the circumstances of the case.

規項百合聯違
定及四にな言
なひ十於受執
準第八てく行
用三條はへ者
す項第第き
の二六協報

In cases where an executor is to receive remuneration the provisions of the second and third clauses of Article 648 are applied.

十二百千第
條一

1121.

る任は正な違
な利富怠言
と裁害のり執
な判關事た行
得所係由る者
に人あさか
請はるき其
求其さ其任
す解き他務

If an executor neglects his duties, or if there is any other just reason, an interested party may apply to a Court of law for his dismissal.

こ任のる正違
と務後さの言
なをさきの執
得辭雖は事行
すも就由者
る其職あは

An executor may resign his duties even after his appointment, if he has just reasons for doing so.

1122.

十二百千第
條二

The provisions of Articles 654 and 655 extend to cases where the duties of an executor have ended.

合い言五及第
に終執條ひ六
之了行の第百
なし者規六五
率たの定百十
用る任は五四
す務務遺十條

1123.

十二百千第
條三

The expenses connected with the execution of a will are treated as a charge upon the property of the succession. But the heir's portion cannot be reduced thereby.

さ留但財す遺
な分之處る言
得なにの費の
す減因費用執
すり擔は行
るてき相に
こ遺す續關

SECTION V.

節五第

CANCELLATION OF WILLS.

消取の言遺

1124.

十二百千第
條四

A testator may at any time cancel the whole, or a part, of his will in accordance with the formalities of wills.

消又其方に遺
すは遺式で言
こ一言にも者
さ部の從違は
なを全ひ言何
得取部での時

1125.

十二百千第
條五

If an earlier will conflicts with one of later date, the earlier will is, in so far as the portion which is

すはす言さ前
る其るさ後の
部抵さ抵の遺
分獨き獨違言

做るなてのに in conflict is concerned, regarded as having been can-
すも取前遺付の消の言て celled by the later will.
さし遺なは
看た言以後

すす他遺前 The provisions of the preceding clause extend
るの言項 to cases where there is a conflict between a will
場法者の規 and dispositions made, or any other legal act per-
合律の規 formed, by the testator during his lifetime but after
に行生定 the making of his will.
之爲前は
みな處遺
平抵分言
が觸其か

十二百千第
條六

1126.

滅かゝる滅遺 If a testator purposely injures his will, it will
し故た部し言 be regarded, in so far as the injured portion is
た意る分た者 concerned, as having been cancelled. It is the same
るにもにるか
さ遺の付さ故
贈さてき意
亦の署ははに
同目做遺其遺 if a testator purposely destroys a thing which is the
し的す言毀言 subject of a legacy.
物遺を滅書
を言取しを
毀者消た毀

十二百千第
條七

1127.

るすたさた前 A will which is cancelled in accordance with the
場但るれる三 three preceding Articles does not recover its validity
合其さ又遺條
は行さば言 even if the act of cancellation is cancelled, or be-
此爲さ効は規 comes of no effect. But cases where the act of can-
限か難力其定 cellation is the result of fraud, or compulsion, do not
に詐もな取に come under this rule.
在欺其生消依
ら又效せのり
すは力さ行て
強なる爲取
迫回にか消
に復至取さ
因せり消れ

十二百千第
條八

1128.

すこ抛取其遺 A testator cannot relinquish the right of can-
さ棄消遺言 celling his will.
なす權言者
得るなの

112).

第十二百千第
條九

If a person who has received a legacy which is subject to a charge does not perform the duty with which he is charged, the heir, or heirs, may fix a suitable period, and call upon him to perform the duty within that period. If he does not perform it within the period named, application may be made to a Court of law for the cancellation of the will.

判履其は擔負
所行應相し擔
にな行續た附
請きなる人遺
求さるる義贈
するは告相務
るはし當を受
こ遺若の履け
さ言し期行た
なの其間せる
得取期をさ者
消間定るか
な内めさ其
義にてき買

CHAPTER VII.

章七第

THE HEIR'S PORTION.

分留遺

1130.

條十三百千第

A lineal descendant who is heir by law to the headship of a family receives as the heir's portion one half of the property of the person succeeded to.

なのし屬人法
受財てはた定
く産被遺る家
の相留直督
半續分系相
額人と卑續

Other heirs to the headship of a family receive as the heir's portion one third of the property of the person succeeded to.

の財後留相此
一產相分續他
なの續さ人の
受三人しは家
く分のて遺督

1131.

十三百千第
條一

A lineal descendant who is heir to property receives as the heir's portion one half of the property of the person succeeded to.

く産被遺る遺
の相留直產
半續分系相
額人と卑續
なのし屬人
受財てはた

を時し尊配遺
受産て属偶産
くの被は者相
三相遺又續
分續留は人
の八分直た
一のさ系る

A consort, or a lineal ascendant, who is heir to property receives as the heir's portion one third of the property of the person succeeded to.

十三百千第
條二

1132.

之り財産開遺
な債産の始留
算務の價の分
定す全額時に
額を其被相
加贈て續
控へ與有人
除其しせ
し中たし相
てよる財續

The heir's portion is calculated by adding to the value of the property possessed at the time of commencement of the succession by the person succeeded to the value of the property disposed of by donation, and deducting therefrom the total amount of the debts.

にし利期條
從たは間件
其鑑の附
價定に確利
格人於定又
のてなは
定評導る存
む價定權續

With regard to rights which are subject to a condition, and rights the period of duration of which is not definitely fixed, the value of these shall be determined in accordance with the valuation of an appraiser chosen by a Court of law.

を關遺に家
算し留屬督
入て分す相
ぜはのる續
す其算權の
價定利特
額には權

With regard to the rights which belong to the special rights of the heir to the headship of a family, the value of these is not included in the calculation of the heir's portion.

十三百千第
條三

1133.

當に其り間
事爲價前
者し額に
變たるは
方算の
か入る
遺入す
留の
分さ
離一
も年
前

With regard to donations, the value of the property which is the subject of a donation is included in the calculation, in accordance with the provisions of the preceding Article, only in cases where the donation has been made within one year before the

commencement of the succession. The same rule applies even to a donation which has been made before the period in question, if, when it was made, both of the parties concerned knew that it would injure the person entitled to the heir's portion.

利者に損害を加ふることを知りて之を爲すは、不當利を得ることを以て、法律上禁止する。

1134.

第十三百千第
條四

The person entitled to the heir's portion, and his successors, may apply for the abatement of legacies, and of the donations mentioned in the previous Article, to the extent necessary for preserving intact the heir's portion.

遺贈の受取人及びその相続人は、前條の遺贈の全部又は一部を減ずることを請求し得る。但し、遺贈の受取人の遺留分を侵害しない限りである。

1135.

第十三百千第
條五

If, in cases where a right which is subject to a condition, or a right the period of duration of which is not definitely fixed, is made the subject of a donation, or legacy, abatement of a portion of the donation, or legacy, has to take place, the person entitled to the heir's portion must at once pay to the donee, or legatee, the value of the remaining portion as determined in accordance with the provisions of the second clause of Article 1132.

附条件の贈與又は附期限の贈與が、前條の規定に従つて一部減ずる場合、受贈人は、その減ずる部分の價值を、即時に受贈人に支払ふ義務を負ふ。但し、受贈人の遺留分を侵害しない限りである。

十三百千第
條六

1136.

な殺れるな贈
得すは後減與
する之に殺は
こを非し遺
さ減さた贈

Abatement of donations cannot take place until
after abatement of legacies.

十三百千第
條七

1137.

意表遺減の實
思示言殺割贈
にしにす合は
從た別但に其
ふる段遺應目
さの言し的
き減者ての
は思つ之價
其な其な額

Abatement of a legacy is made in proportion to
its value. But if the testator expresses a special
intention in his will, the intention shall be followed.

十三百千第
條八

1138.

與に始贈殺贈
に前め與は與
及の順よ後の
ふ贈大りの減

Abatement of donations begins with the last and
extends gradually up to the first.

十三百千第
條九

1139.

るのあ尙す受
こ果りほへ贈
さ實た減き者
ななる殺財は
要返日の産其
す還以請の返
す後求外還

A donee must in addition to the property to be
returned by him also return the fruits acquired from
it from the date of the application for abatement.

條十四百千第

1140.

負はり贈成
擔遺て者殺
に留生のな
歸分し無受
す權た資く
利る力へき
者損にき
の失困受

Loss which arises from the insolvency of a donee
whose donation is subject to abatement is borne by
the person having the right of the heir's portion

1141.

十四百千第
條一

With regard to donations which are subject to a charge, abatement may be claimed in respect of the value of the charge which has been deducted from the value of the donation.

減た擔的負
を殺るのの擔
得なも價價兩
請の額額贈
求にな中興
す付控よば
るき除り其
こ其し負目

1142.

十四百千第
條二

An act performed for an inadequate consideration is regarded as a donation only if, when it was made, both of the parties concerned knew that it would injure the person entitled to the heir's portion. In these cases if the person entitled to the heir's portion applies for abatement, the price paid must be returned.

對分り加は不
價權之ふ當相
な利なを事富
償者贈こ者の
還か與と雙對
す其さな方償
る減看知ひな
こ殺徹り違以
こさかすて留
な請此爲分爲
要求傷し權し
する合た利た
るにる者る
さ於のに有
さての損償
は違に害行
其留限を爲

1143.

十四百千第
條三

If a donee whose donation is subject to abatement has transferred the thing which is the subject of the donation to another person, he must pay its value as compensation to the person entitled to the heir's portion. But if the person to whom the thing was transferred knew at the time of the transfer that injury would be caused to the person entitled to the heir's portion, the latter may claim abatement also from him.

對と渡價人減
しな額の殺
て知當を違を
もり時辨與受
減た違償しく
殺る留すたへ
こさ分るさき
な請は利さき受
す遺者なは者
こに留に要違か
こ分損す留贈
さ權害但分與
な利を讓權の
得者加受利目
はふ人者の
之るのにな
にこ讓其他

なを権の受前
準る利目贈項
用協な者の規
す合設のつ規
に定上贈定
之しに與は

The provisions of the preceding clause extend to cases where a donee has created a right over the thing which is the subject of the donation.

十四百千第
條四

1144.

なにて殺受
免辨償贈を贈
る償額與受者
るしん又く及
て違はへひ
さ返留遺き受
な還分贈留遺
得の権の度者
義利目には
務者の於減

A donee, or legatee, may pay as compensation to the person entitled to the heir's portion the value of the donation, or legacy, to the extent of the abatement to which it is liable, and free himself from the duty of returning it.

な書前前
準の條項
用規第の
す定規
に項定
之但は

The provisions of the preceding clause extend to cases coming under the proviso attached to the first clause of the preceding Article

十四百千第
條五

1145.

し消間あの減
た減之り開殺
るすなた始の
さ相行る及請
き續はこひ求
亦開ささ減權
同始るな殺は
しのさ知す遺
時きりへ留
よはたき分
り時る贈權
十效時與利
年によ又者
な困りはか
經り一遺相
通て年贈續

The right of claiming abatement ceases by prescription if it not exercised within one year from the date on which the person entitled to the heir's portion became aware of the commencement of the succession, and of the existence of a donation, or legacy, subject to abatement. It is the same if ten years have elapsed since the commencement of the succession.

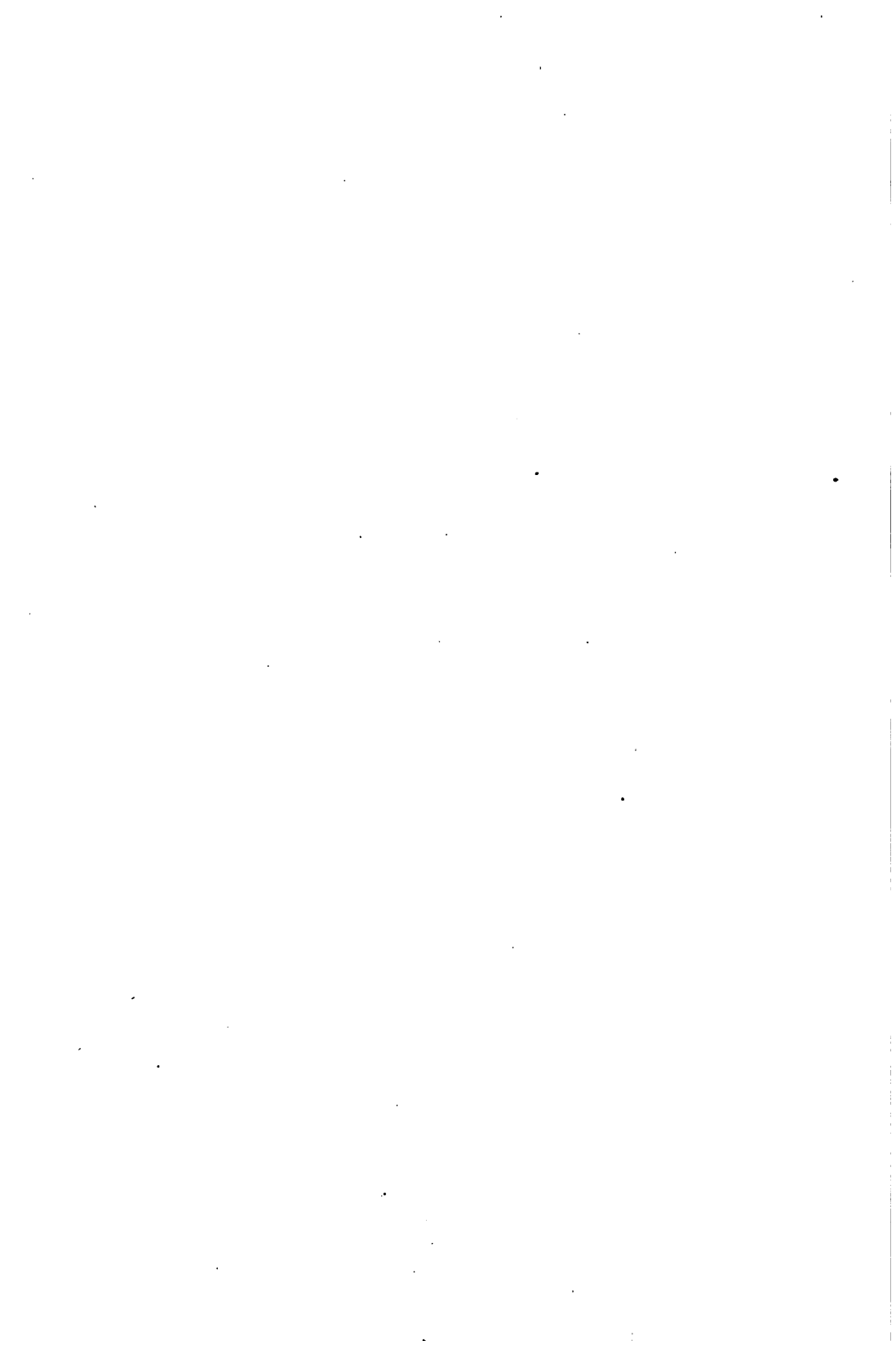
1146.

第十四百千第
條六

The provisions of Articles 995, 1004, 1005, 1007
and 1008, extend to the heir's portion.

準は第條第第
用遺千千九
す留八千四
分條千條九
にの條七條
之規及千
を定ひ五





APPENDIX.

The following Law amending Article 709 of the Civil Code was passed by the Diet in its 13th Session, and promulgated by Imperial Decree on the 7th March 1899 :—

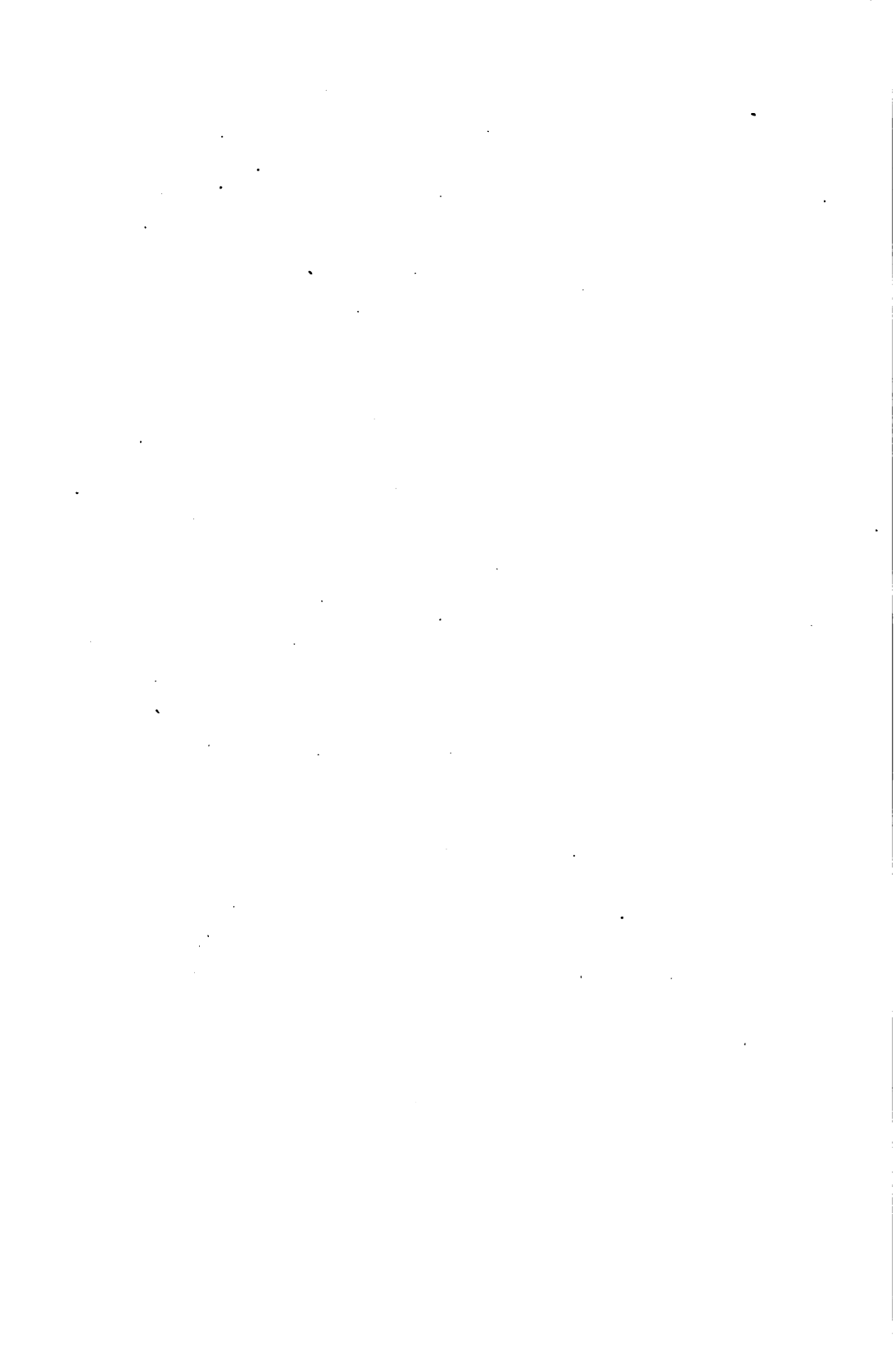
Law No 4.

The provisions of Article 709 of the Civil Code do not apply to cases of accidental fires. But cases where gross negligence has occurred on the part of the person causing the fire do not come under this rule.

The following Law bearing on Article 384 of the Code was also passed by the Diet in the same Session, and promulgated by Imperial Decree on the 15th March 1899 :—

Law No 67.

A foreigner who is a mortgagee of land in making application for its sale by auction in order to obtain a higher price must add that if the mortgaged immoveable fails to realize at auction a price higher by one tenth or more than that offered by the third person who has acquired it, he will be responsible for the difference between the price offered by such person plus one tenth and the price it actually fetches at auction.



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ERRATA.

Page 4, Art. 732, 2nd line, for *his or her consort* read *their consorts*.

„ 8, „ 742, last line, substitute comma for full-stop after the word *her*.

„ 11, „ 751, 2nd line, for *the* read *a*.

„ 15, „ 760, 5th line, „ *bnt* „ *but*.

„ 27, Second foot-note, „ *previous page* read *page 25*.

„ 30, Sub-section II, for *nor* read *for*.

„ 32, foot-note, for *26* read *27*.

„ 45, Art. 843, 2nd paragraph, last line, for *the family council* read *a family council*.

„ 46, Art. 844, 2nd line, insert the word *full* before the word *age*.

„ 62, „ 886, last line, for *the family council* read *a family council*.

„ 63, „ 888, 4th line, for *the* read *a*.

„ 66, number of Article, for *794* read *894*.

„ 67, „ „ Page, transpose figures.

„ 71, first foot-note, for *officer* read *officers*.

„ 74, Art. 912, 2nd line, for *become* read *become*.

„ 84, Art. 938, for *the guardian's account* in two places read *an account of guardianship*.

„ 85, Art. 941, 1st line, for *articles* read *articles*.

„ 87, Art. 945, 1st line, for *The* read *A*.

„ 95, Chapter I, Heading, for *the family* read *a family*.

Pages 99 and 100, foot-note, for *I* read *2*.

Page 105, Art. 982, Sub-heading iv, for *wife* read *consort*.

„ 112, Art. 996, 2nd line, for *ocming* read *coming*.

„ 113, Section III, Heading, for *Validity* read *Effect*.

„ „ Art. 999, 1st line, for *Conrt* read *Court*.

„ 123, „ 1025, „ „ „ *rescrvation* read *reservation*.

„ 125, „ 1028, last „ „ *clauses* read *clause*.

„ „ „ 1030, 2nd „ „ *suscession* read *succession*.

„ „ „ 1031, 3rd „ „ *eonditionally* read *conditionally*.

„ 126, „ 1033, 1st „ „ *Ae* read *An*.

„ 134, „ 1049, „ „ „ delete the word *to* before the word *this*.

„ 138, „ 1060, 2nd „ „ *precribed* read *prescribed*.

„ 144, „ 1074, „ „ „ insert asterisk after the word *present* and add at the bottom of the page the following foot-note:—

The term TACHIAI-NIN means a person who is present not merely as a

looker-on, but for the purpose of taking part in the proceedings. See Article 938, where the context is different.

Page 149, Art. 1084, for *o* read *to*.

„ 152, „ 1095, 4th line, for *legacy* read *legacy*.

„ 154, „ 1100, 2nd paragraph, 3rd line, for *whosc* read *whose*.

„ 159, „ 1112, „ „ 1st „ „ *accordanc* read *accordance*.

„ 161, „ 1116, „ line, for *clauses* read *Articles*.

„ 170, „ 1145, „ „ insert the word *is* between the words *it* and *not*.

ADDITIONAL *ERRATA* IN PART I.

Page 3, Art. 6, 2nd paragraph, for *deals with family relations* read *treats of Kindred*.

„ 4, Art. 12, Sub-heading vi., for *assent to or rejection* read *acceptance or renunciation*.

„ 40, Art. 104, 1st line, for *agent appointed by his principal* read *agent appointed under a contract of agency (mandate)*.

„ „ Art. 104, 2nd line, for *the latter's* read *his principal's*.

„ 58, „ 160, 4th line, for *succession* read *the heir or heirs*.

„ 63, „ 172, 1st „ „ *claims* read *claim*.

„ „ „ 2nd „ „ *and of* „ *or*.

„ 84, „ 227, 5th „ „ *is bound to defray* read *must bear*.

„ 113, „ 306, Sub-heading iii, for *Servants* read *Servants'*.

„ 123, „ 330, 2nd paragraph, last line, for *right of lien* read *preferential right*.

„ 128, Art. 344, 1st line, after the word *over* insert the words *to the creditor*.

„ 139, „ 373, last „ „ „ „ *date* add the words *of registration*.

„ 143, number of page, for 343 read 143.

„ 144, Art. 384, 2nd paragraph, 5th line, for *higher price than* read *price higher by*.

„ 149, Art. 397, 4th line, for *acquirable* read *acquisitive*.

„ 233, „ 605, 1st line, delete comma after the word *if*.

„ 248, Section X, Heading, after the word *Agency* insert within brackets the word *Mandate*.



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